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account of the absence of the Deputy Collectors at headquarters when they post cases for disposal and hearing on any particular date? ”

THE HON. DR. S. GURUBATHAM :—“ As I said before, the details are so great that it was not considered worthwhile taking the trouble of preparing them.”

SRI S. B. ADITYAN :—“ Are not the Government aware, without going into the numbers, etc., that very frequently these cases are posted for hearing dozens of miles away from the places where the defendants and the plaintiffs reside? ”

THE HON. DR. S. GURUBATHAM :—“ I have answered the question as ‘ no ’ in reply to part (a) of the question.”

SRI S. B. ADITYAN :—“ Will the Government instruct the Rent Controllers to post the cases as much as possible at the headquarters where the houses of the petitioners and respondents are and not miles away? ”

THE HON. DR. S. GURUBATHAM :—“ We have already given that instruction.”

[Note.—An asterisk (*) at the commencement of a speech indicates revision by the Member.]

II.—THE MADRAS ESTATES (REPEAL AND CONVERSION INTO RYOTWARI) BILL, 1947 (L.A. BILL No. 37 OF 1947)—*cont.*

MR. PRESIDENT :—“ I suppose the general discussion on the Bill is over and we are now at the second reading stage. Mr. Suryanarayana Rao may now move his amendment to clause 2.”

THE HON. SRI KALA VENKATA RAO :—“ The first amendment of Dr. John refers to the omission of certain words throughout the Bill. If that is disposed of first, a number of amendments on the same subject may go without any further discussion. There is no point in taking up this amendment after finishing the clauses.”

MR. PRESIDENT :—“ I thought it related to the first clause. Yes, Dr. John may move his amendment.”

* **DR. V. K. JOHN** :—“ Mr. President, Sir, we had a fairly full general discussion of the principles underlying the Bill and I do not want to repeat the arguments advanced in the general discussion. The House will remember the criticisms levelled against the inclusion of inams in this Bill. Inams are included in this Bill on the basis or on the alleged ground that inamdars are merely collectors of revenue. I pointed out in the general discussion that even zamindars are not collectors of revenue and they were proprietors of the soil. Whatever might be the history before Regulation II of 1802, when the Statute of this province declared that they were proprietors, they became proprietors in

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spite of any contention to the contrary that historically they were not proprietors. Now, the question whether inamdars were proprietors or were mere revenue collectors went up to the Privy Council in a case reported in XXXVI M.L.J., 585. The Privy Council held—I am reading from the headnote in the decision :

'The ownership of the soil of land in India has always been in the Sovereign or Ruler for the time being. The fact that the Rulers generally collected their land revenues by taking a share of the produce is not evidence that the soil was not vested in and could not be granted by them, but rather supports the contrary assumption.'

'The presumption in the case of a grant by a native ruler is that not merely the land revenue but the soil itself, subject to rights, if any, of then existing occupants, was granted.'

" Their Lordships said :

'The District Judge in setting aside the decrees of the Munsif and dismissing the suits, and the learned Judges of the High Court in the decrees which they made, acted upon what they conceived to be a presumption of law, deduced by them from some decisions of the High Court at Madras and of the High Court at Bombay to the effect that in the case of an inamdar it should be presumed, in the absence of the inam grant under which he held, that the grant was of the Royal share of the revenue only, and they cited the decisions upon which they relied as authorities. Some of these decisions to which they referred do not, upon an examination of them, support the opinions of those Judges as to the presumption which they applied in these suits. In Their Lordships' opinion, there is no such presumption of law.'

" Now, Sir, this is the law of the land, a law that has been laid down by the highest tribunal. There is therefore no presumption that an inam is a grant of the Royal share of the revenue only. If that be so, we must examine every case to find out whether an inam is a gift of the proprietorship of the soil or whether it is a grant of the right to collect revenue. Now we have, according to the Hon. Revenue Minister himself, 3,500 inams, which will be affected by this Bill, if it is passed into law. Now to apply the rule to all the 3,500 cases, which is not historically sound and which is legally wrong works injustice. There are a large number of inamdars who are not as well-to-do as big zamindars, and there have been protests from all over the province against the inclusion of inams. I find that a compromise was agreed to the effect that the 1936 inams might be excluded from this measure. Sir, this is a compromise which is based on no principle whatsoever. It should not be understood that I am against all compromises, for life, perhaps as all know, is full of compromises."

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MR. PRESIDENT :—“ May I just ask you why you want to omit the inamdar who is the owner of the melvaram, because your amendment is to omit ‘ Inam Estate?’ ”

* DR. V. K. JOHN :—“ Because in the general discussion, it was stated that the reason why the zamindar and the inamdar are abolished is that the zamindars and inamdars were collectors of revenue and Government want to abolish that tenure, and their agencies ought to be determined by paying compensation and Government stated that they wanted to convert every tenure into ryotwari tenure.”

MR. PRESIDENT :—“ May I take it that in the present Bill, as it stands, it deals only with inamdars who have melvaram right only and not with those who are owners of land. I think the object of your (Government) amendment is to exclude inamdars who are proprietors of the soil. That is how I understand the Bill. The Hon. Minister will correct me if I am wrong.”

THE HON. SRI KALA VENKATA RAO :—“ The position till 1908 was inams were on the same footing as zamindaris. They were treated as estates and were brought within the scope of the Estates Land Act in section 3 (2) (d) and they are defined in that Act as follows :—

‘ Any inam village of which the grant has been made, confirmed or recognized by the British Government, notwithstanding that subsequent to the grant, the village has been partitioned among the grantees or the successors in title of the grantee or grantees.’

That was the original position; but subsequently many decisions came from the High Court. At one time it was held that only melvaram is given, and sometimes both melvaram and kudivaram were granted. The law was fluid on the question and it was set right by legislation in 1936 saying that even in cases where inamdar proved he had kudivaram right the ryot can acquire kudivaram right by paying one year’s rental to the inamdar. But the argument arose, what about those persons who did not exercise such right or did not avail of that privilege. In such cases did the inamdar possess both kudivaram and melvaram right? That is the main objection for 1936 legislation, and therefore the opponents of inams say, inams ought to be abolished now.”

MR. PRESIDENT :—“ So the kudivaram right is to be separated from the melvaram right?”

THE HON. SRI KALA VENKATA RAO :—“ That is what I pressed yesterday. In the present Bill we wanted to separate the class of inams under the Act of 1908 from those under the Act of 1936. But it was pointed out that the inamdars had no records; but I said all the available records will be placed before the tribunal, and that is the way in which we want to solve the question.”

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MR. PRESIDENT :—“ Am I to understand that the words ‘ Inam ’, ‘ Inam Estate ’ and ‘ Inam Village ’ refer to only inamdars with melvaram right?”

THE HON. SRI KALA VENKATA RAO :—“ In the original Act of 1908 only melvaram was referred to; but the 1936 legislation declared that if the inamdar has melvaram right and kudivaram the ryot can purchase the latter by paying an year's rental as compensation.”

MR. PRESIDENT :—“ So ‘ inam estate ’ means the owner has only melvaram in the estate.”

THE HON. SRI KALA VENKATA RAO :—“ And the tribunal will decide which is 1936 inam and which is 1908 inam.”

MR. PRESIDENT :—“ But I don't see why all the classes should be clubbed in one amendment by Dr. John.”

THE HON. SRI KALA VENKATA RAO :—“ But Dr. V. K. John wants to exclude all inams.”

MR. PRESIDENT :—“ In that case, why should he worry about the ownership of the soil?”

* DR. V. K. JOHN :—“ The position is this. We started originally with the idea of abolishing the zamindaris; and the underlying basis was that the zamindars are not owners of the soil or proprietors but only revenue collectors. Now, Sir, that is the reason given for many provisions of the Bill, particularly the provision where the zamindars are not given the market value of their holdings, which they would otherwise get. Now inams are also clubbed with zamindaris. I say it would be more equitable, more advantageous to omit inams from this Bill altogether. And I say that for another reason too for the 1936 legislation did not create any new rights; it only said if anybody wanted to find out whether in an inam a ryot had an occupancy right and whether he was a ryot within the definition of the Estates Land Act he had to go to a tribunal. The other day, the Hon. Revenue Minister said, barring a few cases, it was found there was no distinction between these inams and others covered by the Estates Land Act of 1908. Now, Sir, the omission of 1936 inams is said to have been done by a compromise; and the Hon. Revenue Minister was quite clear in his speech, and he was very happy about it too, when he said that the 1936 inams are still hanging fire and there is no final settlement about them in spite of the fact they are excluded from the operation of this Bill. I do not say, there should not be any compromise. In fact, the leading characteristics of British legislation is said to be ‘ conflict compromise and caution.’ I do not say, in legislation there should not be compromise. But I find, here, in this Bill, no principle whatsoever in excluding the 1936 inams and not excluding other inams; and I find no principle whatsoever in clubbing together inams and zamindaris.”

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MR. PRESIDENT :—“ The principle, as I understand it, is that both have melvaram rights only.”

* DR. V. K. JOHN :—“ When it was found that the original tenants in occupation had occupancy rights and that right was disputed, the Regulation of 1802 was explained by another Regulation, declaring that that was not intended to affect the tenants in occupancy and cultivating lands. Later there was a lot of agitation, and in 1908, Act I of 1908 was passed, giving occupancy right to ryots in zamindaris and other estates. Now the occupancy rights given to ryots is quite a different thing. Now, the question is, why should you pass a patta to the inamdar when you omit the 1936 inams? I say, omit all the inams now. Let us now confine ourselves only to zamindaris. I am going to ask, when the notification is to be issued, let us issue notice to the impartible estates first. Because the Agrarian Reforms Committee, which will make some good suggestions, is functioning and it is quite possible that the Government of India would intervene, after that Committee had submitted its report, and ask the provinces to bring forward a comprehensive tenancy legislation. I am afraid we are rushing through this legislation, and perhaps, with the result that the Centre will not allow this legislation to be placed on the statute book. We may be asked to bring forward a comprehensive legislation on tenancy reform. Now, when we have gone so far on this Bill, I suggest we confine ourselves to zamindars alone.

“ There is one other important reason. You, Mr. President, had been unavoidably absent during the first reading stage of the Bill. If you care to look into the proceedings, you would have found out that a very large number of hon. Members of this House belonging to the Congress Party expressed strongly their opinion that both kinds of inams, 1936 inams as well as pre-1936 inams, should be excluded from the scope of this Bill. But the 1936 inams alone have been excluded.”

MR. PRESIDENT :—“ What is the difference between the 1936 inams and the other inams? ”

* DR. V. K. JOHN :—“ Before 1936 the tenants complained that they ought to have occupancy rights. An enquiry was made by a tribunal and it was found out that 98 per cent of the inams came under the Estates Land Act. The tribunal found out that both the inams were of the same category.”

MR. PRESIDENT :—“ If I have understood the Bill properly, the position is this. If it is found on investigation that in 98 per cent of the inams melvaram alone is given, such inams will come within the scope of this Bill. Only the remaining 2 per cent which are said to carry both varams, melvaram as well as kudivaram, will not come in.”

* DR. V. K. JOHN :—“ That means actually there is no exemption.”

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MR. PRESIDENT :—“ It may mean that.”

THE HON. SRI KALA VENKATA RAO :—“ A list of inams was prepared prior to 1936 and it was found that there were 7,000 whole inam villages in this province. In how many of these melvaram alone is given or kudivaram alone is given has not been investigated by any tribunal. Only stray cases went before courts of law. This Bill seeks to abolish inams where melvaram alone is given; and clause 9 provides for an enquiry into the inams. I said that only about 8,000 cases went before the tribunal. The other day Sri A. Govindacharyulu said that many inamdars did not care to go to the Tribunals to avoid the trouble of establishing their right to kudivaram. Because it would after all come to one year's rental, they did not care. The question whether in an inam melvaram alone was given or both varams were given will be enquired into and decided once for all, and clause 9 provides for it.”

MR. PRESIDENT :—“ Am I right in saying that if it is found on investigation that only melvaram is given in an inam, such an inam will fall within the scope of this Bill? ”

THE HON. SRI KALA VENKATA RAO :—“ Even in the Madras Estates Land Act, 1908, melvaram alone is tendered. Therefore we are not bringing in anything new.”

* DR. V. K. JOHN :—“ Sir, I was referring to the fact that almost every hon. Member on the other side who spoke on this Bill criticized very strongly the inclusion of inams in this Bill. I am speaking of opinions strongly expressed in this House. If the Congress Party allows freedom to the members to vote as they like, the House will vote for the exclusion of all inams. This raises a very great principle. I may also say that my amendment is identical to the amendment moved by two prominent members of the Congress Party in the other House, Messrs. A. Vaidyanatha Ayyar and N. S. Varadachari. Their amendment is as follows :—

“ For the words “ estate or estates ” throughout the Bill, substitute the words “ zamindari or zamindaris ” and omit the words “ inam ” or “ inam villages ” as well as the clauses relating thereto throughout the Bill ”.

THE HON. SRI KALA VENKATA RAO :—“ Let Mr. John understand that the amendment was not moved in the Assembly at all. It was only printed in the list of amendments.”

* DR. V. K. JOHN :—“ I am only reading from the list and the fact remains that notice of the amendment was given. This and a large number of other amendments were sent by Congress Members, discussion went on and the House divided on many amendments. This is a very controversial Bill affecting a large number of persons in the province. This is eminently a fit case where freedom should be given to the members to vote as they like.”

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MR. PRESIDENT :—“ I am anxious to understand why, when the hon. Leader of the Opposition is agreeable to the abolition of zamindaris, he is opposed to the abolition of inams. My difficulty in following him is this. Both the zamindars and inamdars are melwaramdars. Why should the former alone be abolished and the latter retained? ”

* DR. V. K. JOHN :—“ I was for dropping this Bill so that the zamindar as well as the inamdar may be there. But I find that there is a general feeling among the members of the Congress Party . . . (The Hon. Sri Kala Venkata Rao :—‘ Why are you worried about it? ’) I am worried in this way. We have got to protect the dignity and reputation of this House. It detracts from the dignity of the House if the members who opposed the inclusion of inams vote for a Bill which includes them, under pressure of the party whip. I see the whip is here to-day.”

MR. PRESIDENT :—“ His absence does not make any difference.”

* DR. V. K. JOHN :—“ We may not pass a perfect legislation. But what we pass must be in consonance with the majority opinion expressed on the floor of the House. The conscience of members should not be suppressed. The Hon. Leader of the House should permit the members of his party to vote in accordance with the speeches they made in the general discussion of the Bill. Otherwise, while the majority is of one view, what we pass will be opposed to that view. On the ground that there is so much agitation and that the members have expressed strongly that inams should be excluded and on the ground that a large number out of the 3,500 inamdars will be put to great suffering if the Bill is passed as it is, I press my amendment.”

* ABDUL LATIF FAROOKHI SAHIB BAHADUR :—“ I second the amendment. I don't think that there can be any justification for retaining the other inams when the 1936 inams have been excluded. The amendment is perfectly in order. As I said in the general discussion, I hope that the Hon. Revenue Minister will accept at least one or two amendments to show that he has got some regard for this House.”

* SRI R. SURYANARAYANA RAO :—“ Mr. President, Sir, throughout the general discussion on this Bill, I used the plural ‘ principles ’ in criticizing the Hon. Revenue Minister. He presented to this House a Bill as passed by the Assembly which was quite different from the Bill as amended by the Select Committee, and again the Bill as amended by the Select Committee was quite different from the original Bill. In the Bill as amended by the Select Committee, 1936 inams were not excluded. He asked me why I used the word ‘ principles ’. I quoted some instances to show that he had departed from the principles of the original Bill. The Hon. Revenue Minister did not explain the circumstances under which he was compelled to move the amendment for excluding the 1936 inams in the Assembly. What pressure was brought

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to bear upon him, we do not know. In the first reading stage in the Assembly and in the Select Committee, he was totally opposed to the exclusion of any inam. He has got an intention of bringing in the 1936 inams also. So I say exclude all inams from this Bill and bring a common legislation to deal with them. With these words, I support the amendment."

MR. PRESIDENT:—"I wish to know on what ground you say this."

* SRI R. SURYANARAYANA RAO:—"On what ground he excluded the 1936 inams, I wish to know."

MR. PRESIDENT:—"I think I am correct when I say that he wanted to include the 1936 inams also but that he was prevented from doing so."

* SRI R. SURYANARAYANA RAO:—"In the original Bill, he included all inams. Even to-day he is proclaiming that he wants to do away with all inams as he is doing away with zamindaris. I am unable to understand why certain inams should be excluded and the others included. That is my difficulty."

12 noon. "If the Leader of the Opposition has moved this amendment and if I am speaking on that, it is because we are not satisfied with the reasons given for the exclusion of these inams. Various things are mentioned in this Bill. Although we are not concerned with the circumstances under which the Government had to accept this compromise, yet we should like to know the reason why the Hon. Minister has particularly excluded these inams, whereas his own individual opinion is that all inams should be included under this Bill."

THE HON. SRI KALA VENKATA RAO:—"Mr. President, I thank you, Sir, and I am glad that you have cleared many of the points raised and I do not think that I can add anything more to what I have already said with regard to this point. I am sorry I am unable to impress upon my hon. Friend, Mr. Suryanarayana Rao, the reasons why the 1936 inams had to be excluded from this Bill. The reason, to put it simply, is that there was a difference of opinion regarding the position of the 1936 inamdar, namely, whether he holds both warams or only a single waram. That position was not clear and beyond doubt. Advantage was taken of it by a good many friends who urged that in order to show equity and justice in this matter, that question should be gone into in greater detail and that the position should be made clear beyond doubt. That is the simple reason, Sir. Though personally I am convinced that the number of cases wherein the kudiwaram in the inamdar vests is very much limited, when a reasonable doubt has been expressed by people who are in the know of things, we must adopt the motto, 'First conflict, then compromise and then caution.' Now that we have passed through the stages of conflict and compromise, we have to adopt the third course, namely, caution, and the result is the present Bill. We have proposed

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to go into the question of the 1936 inams in greater detail and I promise on the floor of the House that I would lay before the Tribunal or the Special Officer all the records in the possession of the Government to determine whether a particular village was an inam village or an inam estate. If it is an inam village, it means that the inamdar has also been given the kudiwaram right, that is, the right to cultivate the land. Therefore, Sir, we have left out these inams from the purview of the present Bill as a matter of caution, and that will be examined again and will be brought before the House in another measure. But till then, we have to get on with this Bill and I hope that my hon. Friend Dr. John would see the reasonableness of the position taken up by the Government and withdraw his amendment."

* DR. V. K. JOHN :—" I would not withdraw the amendment, Sir. I would like to leave it to the vote of the House and I should like to know how many friends on the other side who strongly favoured the exclusion of all inams from this Bill in their speeches are going to vote on this amendment, Sir."

SRI B. BHIMA RAO :—" May I explain my attitude, Sir? "

MR. PRESIDENT :—" I do not think it is necessary at this stage.

" The question is—

' Omit the words " Inams ", " Inam Estate " and " Inam village " as well as the clauses relating thereto throughout the Bill '."

The amendment was lost.

Clause 2.

Sub-clause (11).

* SRI R. SURYANARAYANA RAO :—" Mr. President, Sir, I move the amendment standing in my name, namely—

' In sub-clause (11) add the words " as approved by the Provincial Legislature ".'

" Sir, my amendment is a very simple one. Sub-clause (11) of clause 2 defines the term ' prescribed ' as ' prescribed by rules made by the Government under this Act.' I want to add the words ' as approved by the Provincial Legislature ' to it. It must be admitted on all hands that rules which are prescribed by the Government under this Act should be approved by both Houses of the Legislature, inasmuch as the Government themselves have agreed to place certain rules before the Assembly. Therefore my object in moving this amendment is to require the Government to place before members of both Houses of the Legislature such rules as are made by the Government under this Act, so that both Houses may have an opportunity to discuss these rules and give their approval to them, and not the Legislative Assembly alone as proposed under certain clauses. The Hon. Minister for Revenue was

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good enough to say that though the Bill says that they may be placed before the Provincial Assembly only, he was willing by a special resolution to bring certain rules before this House also. What my amendment says is exactly the same thing, namely, that the rules made under this Act should be approved by the Provincial Legislature, that means, both the Houses. I do not think that I need make an elaborate speech to commend this amendment to the acceptance of the Hon. Minister for Revenue."

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—" I second the amendment, Sir."

THE HON. SRI KALA VENKATA RAO :—" Sir, I can understand the demand from hon. Members of this House that whatever rules are placed before the Assembly should also be placed before the Legislative Council."

MR. PRESIDENT :—" May I say that we had this provision in the original Bill? "

THE HON. SRI KALA VENKATA RAO :—" Yesterday the Hon. President was not present and I thought that I had explained the position clearly, Sir."

MR. PRESIDENT :—" I read the Hon. Minister's speech. But I think it should not be a matter of charity from the Hon. Minister."

THE HON. SRI KALA VENKATA RAO :—" I submit, Sir, that it was not a matter of charity. It was because we recognized the force of the contention that we put that provision in the original Bill and that shows our *bona fides* in this matter. The rules that are contemplated here are merely administrative rules and if every rule is to be placed before this House and approved, then there must be a perpetual session of this House. It is common provision under every Act and you will find the same clause repeated more than once in every Act. But where some important matters are involved, we are prepared to bring them before the House and take its approval. Now take for instance the mode of payment of compensation. That is an important matter and we have decided that rules in respect of them should be brought before the Legislature. But it is neither practicable nor reasonable to demand that all routine rules made under the Act for administrative purposes should be brought up before the Legislature. That will only impede the administration of the Act. I would therefore request the hon. Member to withdraw his amendment."

MR. PRESIDENT :—" The question is—

'that in sub-clause (11) of clause 2, add the words "as approved by the Provincial Legislature".'"

The amendment was lost.

* DR. V. K. JOHN :—" Mr. President, Sir, this Bill seeks to repeal the Madras Estates Land Act. At the same time clause 2, sub-clause (1), provides that all expressions defined in the Estates

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Land Act shall have the same respective meanings as in that Act with the modifications, if any, made by this Act. I submit, Sir, that it is not in order to refer to some Act which is to be repealed, for the purpose of definition. It would have been better for the draftsmen to have defined all these terms without referring them back to the definitions contained in an Act, which this Bill seeks to repeal. I have not brought an amendment but I hope that the Government will see that these mistakes are not repeated in future drafting."

THE HON. SRI KALA VENKATA RAO :—" Sir, I submit that the whole of the Estates Land Act is not going to be repealed, because we are keeping the 1908 inams still. But if there are any defects in this Bill in the matter of drafting, we are here to rectify them."

Clause 2 was put and carried.

Clause 3.

Sub-clause (b).

SRI B. NARAYANASWAMI NAYUDU :—" Mr. President, Sir, I move that in clause 3, sub-clause (b)—

- (i) *After the words "pasture lands," add the words "not included in the holding of a ryot."*
- (ii) *After the words "tanks and irrigation works," add the words "not included in the holding of a ryot or in the holding of a landholder and which does not serve any ayacut of ryots of the village under it."*
- (iii) *After the word "ferries" add before the close of the bracket, the words "and excluding all lands held in the holding of the ryots of the village or villages of the estate."*
- (iv) *After the words "vest in them," add the words "in trust for the village community of the villages concerned".*

" Sir, as I have already told this hon. House, the fundamental clause in the present Bill is clause 3 (b). With regard to this clause I have given notice of four amendments which I have moved just now.

" Sir, one significant thing which may be noticed in the clause is the inclusion of certain items of lands and other properties not included in the holdings of the village or the estate, because the clause does not expressly or purposely say whether such lands are held by the ryots or not, but simply says that 'such lands shall stand transferred to the Government and vest in them free of all encumbrances.' The implication of this sub-clause is that not only the landholders' rights on the land, but also the ryots' interests in the land shall stand transferred, subject of course to their getting a ryotwari patta from the Settlement Officer afterwards. I submit, Sir, that this is an inversion of the regular procedure. What you want is to distinguish the zamindars' interests from the interests

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of the ryots. But you proceed straightaway and say that the 'entire estate without excluding any item of property included in the holdings of the ryots in the villages shall be transferred to the Government.' My amendment says, exclude such lands of the villages belonging to the ryot. There are two items of properties involved. One is pasture lands. You say that pasture lands will also be included in the estates and will stand transferred to Government. But I want that such lands should be vested in the people of the village. The other item is the irrigation works. I want that irrigation works not included in the holding of a ryot or in the holding of a landholder and which does not serve any ayacut of ryots of the village under it, should not be included in the items of properties to be transferred to the Government.

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"Therefore, Sir, these are what are called private lands or the pasture lands belonging to the ryot and included in his holding. The whole question is whether clause 3 ought to have universal effect and in addition to the landholders' interests it is also to include poramboke and other communal lands. As regards the pasture lands, they are lands for which there are owners and they are already included in the holdings of the ryot. The question is whether such lands also should be transferred. The whole scheme seems to be that the entire village should vest in the Government and then they should create a right. With your permission, Sir, I want to take up clauses (i), (ii) and (iii) of my amendment together. I want to know from the House whether it is their intention not merely to extinguish the zamindars' right but also the ryots' interests in the holdings which have been created therein. There is also another provision in the clause, namely, 'Provided that the Government shall not dispossess any person of any land in the estate in respect of which they consider that he is *prima facie* entitled to a ryotwari patta.' Pending a decision of the Settlement Officer whether the ryot is entitled to a patta or not the holding of a ryot also is to be transferred to the Government. That is the effect of this clause. Therefore the Government take in the first instance the power to determine whether a certain ryot shall be dispossessed of his holding or not, that may be a lanka land or a pasture land or it may even be a tank for irrigation purposes. Therefore the point now for consideration is whether this Bill is contemplated to confiscate the holdings of the ryots and put them back again after the settlement made by the Settlement Officer. Therefore the scheme of the Bill is not only that the interests of the zamindar but also the poramboke lands and lands coming under the patta of anybody also shall stand transferred to the Government. Unless the Government say that a particular person is entitled to a ryotwari patta he is liable to be dispossessed of his land. My submission is that we should exclude all lands held in the holding of the ryots of the village or villages concerned. It is stated, Sir, that the ryot's holding shall stand transferred to the Government subject to a ryotwari patta being issued later on by the Settlement Officer and subject also to a case being made out before the Hon. the Revenue Minister.

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as the Leader of the Opposition said. Is it the intention that the masses should contact the Ministers and not the Ministers the masses? What will happen is that as soon as the date is notified the ryots must flock to the Settlement Officer and the Revenue Minister to see that they are not dispossessed of their holdings. Whether it is intended or not the effect is there. It will be subject to the sweet will of the Government whether he is to be dispossessed or not. I say this is an important thing. (Interruption.) If it is not the intention the law is there. The law says that they shall stand transferred to the Government subject to the owner getting a patta from the Settlement Officer. I ask, what is the necessity for introducing such a clause with regard to the ryot's holding? I shall show as we develop the various clauses as to how the necessity was felt. I want to know whether this House is going to say that the holdings of the ryots also shall stand transferred.

“Then they say that it should be free of all encumbrances. Is it the encumbrance created by the landholder alone or the encumbrance created by the ryot also? (Interruption.) It is not extraordinary. It says that the entire estate shall stand transferred to the Government and vest in them free of all encumbrances. I want to know to what encumbrances and created by whom. I say that they must be only those created by the landholder and not by the ryot. The ryot's encumbrances should continue to stand.”

MR. PRESIDENT :—“The more the hon. Member looks into the amendments he has given the more the flaws that appear to him.”

SRI B. NARAYANASWAMI NAYUDU :—“I have given an amendment to sub-clause (c), viz., *add* the words ‘landholder's interest in the’ before the word ‘estate.’ I don't know, Sir, why should the ryots' holdings go and stand automatically transferred to the Government and then come back again by way of a patta. The ryots' holdings will continue. What is the necessity for creating a law like this? I want hon. Members on the other side of the House who are very interested in the village holdings, to say whether it is their intention that the ryot's holding should be transferred to the Government first and then it should be got back again by means of a ryotwari patta. I submit, Sir, there is no necessity. On the other hand everything could be done easily by excluding all lands in the holding of the ryots. In other words the land held in the holding of the ryot in the village shall not be transferred to the Government. That is my simple proposition, Sir, and I hope the hon. Members of the House will see to it that this amendment is accepted because there is no difficulty at all about it.”

MR. PRESIDENT :—“Is the hon. Member moving his amendments (i), (ii) and (iii) together?”

SRI B. NARAYANASWAMI NAYUDU :—“Yes, Sir.”

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ABDUL LATIF FAROOKHI SAHIB BAHADUR :—“ I second the amendments, Sir.”

* DR. V. K. JOHN :—“ Mr. President, Sir, in form and in substance clause 3 cannot be supported at all. If you analyse it you will find how absurd the provisions of clause 3 are and how this could have been drafted to carry out the objects of the Bill and how it could have passed through this hon. House. It is said that on the notified date all the interests of the landholder and the ryot will pass on to the Government and will vest in them free of every encumbrance created either by the landholder or the ryot. Only the ryot is not dispossessed if it is *prima facie* found by the authorities that he is *prima facie* entitled to possession and the relations between the landholder and the ryot are at an end. Now, what is the object of this Bill? Clauses 11, 12 and 13 provide that the Government will issue a patta to the landholders and ryots under certain circumstances and conditions and they will pay the assessment. If that was the only object of the Bill, why should not the Bill provide that on the notified date all interests of the holder will pass on to the ryot if the ryot is entitled to a patta and if the landholder is entitled to a patta nothing need be mentioned because he will be given a ryotwari patta. What the Government want is to change the zamindari and the inams system into ryotwari and not to vest in the Government all the interests in the land belonging to the landholder and to the ryot. To whomsoever the Government might grant a patta, he must have the proprietorship in the soil subject of course to the right of the Government to be the ultimate proprietor or one entitled to revenue. Instead of doing that, and instead of providing that on the notified date the landholder will be a pattadar and the ryot will be a patta-holder and that the landholder will get a compensation, they have provided that all interests in the land will pass to the Government. For a minute at least there is neither a landholder nor a ryot and nobody interested in the land. But here they take away the rights of the landholder and the ryot; not only do they do that, but they say that the Government are entitled also to possession.”

MR. PRESIDENT :—“ What is the position in the ryotwari area? Even now the encumbrance made by the tenants is not valid against the Government.”

* DR. V. K. JOHN :—“ I admit that they are not valid against the Government. They are valid against the person who created the encumbrance. I have not come to encumbrances, Sir.”

MR. PRESIDENT :—“ The point raised by me is this. Even now in the ryotwari areas the Government's interests are not at all affected by encumbrances. This position will stand.”

* DR. V. K. JOHN :—“ No, Sir, the Government's position as a person entitled to collect revenue is not affected by any dealing, in a mortgage or in a security being created by the landholder

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or the ryot who is interested in the land and who has got some proprietorship, call it part proprietorship or part interest in the land. Now the Bill provides that on the notified date every person, the landholder and the ryot loses his interest in the land and it is transferred to the Government.

“The possession also is transferred to the Government, knowing full well that there will be bloodshed, they will not take actual possession of the land in certain cases. I am quite sure that the Government will not be able to take possession of any bit of land without some fight. But, Government will enforce its authority to take possession of large plots of land. For what purpose? For distribution to their favourites and their dependents. Otherwise, why should they provide such a clause in this legislation? As soon as the notification is issued, the man is entitled to a patta and he becomes the proprietor of the soil and he will pay revenue to the Government.”

MR. PRESIDENT:—“That aspect is not dealt with by clause 3. Clause 11 deals with that.”

* DR. V. K. JOHN:—“Sir, if it was the object of the Government only to change the zamindari and inam systems into the ryotwari system, the only provision they have to make is that on the notified date the two former systems will be abolished and the ryot will be entitled to a patta and that he would be paying thereafter rent to the Government. Instead of that, why should the lands vest in the Government? Then, Sir, look at the injustice that is being done. It is said that the land will vest in the Government free of all encumbrances. You, as a lawyer, know that if a person has got a mortgage on the land, a mortgage on the immovable property, there is no remedy against him after the lapse of six years, if the document is registered. It must be a registered document if it is for over one hundred rupees. Sir, the ryot is very much indebted to-day. What does this clause 3 say? It will vest in the Government free of all encumbrances. But, what about the man who has lent money on the security of the interest of the ryot and the landlord. If it is free of all encumbrances, you cannot enforce it against him because it may be a period of six years is over and the limitation is passed.”

MR. PRESIDENT:—“It will vest free of encumbrances against the Government.”

* DR. V. K. JOHN:—“Now, Sir, if the property passed to the Government, what happens to the mortgage on that property? It is a fundamental principle of law that the assignee is subject to equities. You, Sir, have heard about ‘subject to equities.’ Now negotiable instruments can be transferred by endorsement without being subject to the rights and liabilities between the two previous parties, the maker and the endorser, because it is a negotiable instrument. But, if it is a bond or a mortgage or any other security, the assignee under the law must take subject to all equities. If I have mortgaged my property for

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Rs. 50,000. A favour of A and if I have received Rs. 25,000 from him and that mortgage right is transferred the mortgagor will be able to say to the transferee 'I have paid Rs. 25,000; now you take the mortgage subject to equity.' Now, Sir, it is not said anywhere that Government is liable, when it takes over the interest of the landlord or the ryot, for the mortgage or the security created by the proprietors of the soil or by people recognized by law as proprietors. Do the Government take these lands subject to equities, subject to all the encumbrances? According to this Bill, Government is not liable. This House takes the responsibility to pass a provision by which the landholder and the ryot may be deprived of their property not subject to equities."

MR. PRESIDENT :—" I think there is another clause which says that for any encumbrances attached to the land will attach themselves to the compensation that will be paid."

THE HON. SRI KALA VENKATA RAO :—" These are two different aspects. Unnecessarily both are mixed up by the hon. Member."

* DR. V. K. JOHN :—" He will have to claim compensation. That is what I say is inequity. When you take possession of the land, you should transfer the rights of parties under the law. When the interests of the landlord and the ryot are transferred to the Government, Government ought to have said in fairness, that they take the interests subject to all equities. Instead of that, it is said to be 'free of all encumbrances.' The creditor loses if the personal liability for the landholder or the ryot is barred by limitation and the compensation payable by the Government is insufficient. Then, Sir, most of these mortgagees may be for some years. Suppose it is a usufructuary mortgage. There are so many usufructuary mortgagees and if the Government have contemplated the hardships caused to them, they might not have come with this clause 3. There are hundreds and hundreds and thousands and thousands of usufructuary mortgages. What happens to them? The usufructuary mortgagee will not get the patta. The ryot gets the patta and the Government is entitled to possession of property for which no patta is given to the ryot. The clause only says that the Government shall not dispossess any person of any land in the estate in respect of which they consider that he is *prima facie* entitled to a ryotwari patta. Suppose I have taken an usufructuary mortgage for Rs. 50,000 on twenty acres of land belonging to a ryot. If the Government take away the immovable property. I do not know what will happen to my amount if the Government take the land free of all encumbrances. I do not know how the Hon. the Revenue Minister who has certainly made a very thorough study of the land system is responsible for such a provision in this Bill. It may be that tens of thousands of creditors have lent money on the security of the estates and if the Government provide that all interests in the land created by mortgagees on securities will be

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taken away by them free of all encumbrances, it is most inequitable. Sir, it is a most inequitable provision which any Legislature can ever pass into law. Are we going to be responsible for such a provision? I enter an emphatic protest against this. As a Member of this House, I cannot, in conscience, be a party to this legislation, because the interests created on immovable property vanish into thin air by the provision under clause 3 that Government will take over the lands free of all encumbrances. I say it will be an absurd piece of legislation if it is passed into law. My objection is this. Why should the Government first take possession of these estates and become owners of the estates? Government are already the owners and they have got the right to make assessments. Why should Government become owners? There is no sense in this at all because Government are already the owners of the soil for purposes of assessment. Sir, the real truth is that by passing this law, Government will get a large number of plots of lands, lanka lands, forest lands and others, which they want to distribute to anybody they like as a patronage. It has already been said in one newspaper to-day that this House as well as the lower House is overweighted with representatives of the intermediaries, and this supplies another reason. The Government take possession of these lands because they want to pay compensation for these properties from the public revenues and unless the properties vest in the Government, how can they pay it from public revenues? What should be done is that the property should vest in the ryot and the ryot must pay the compensation. Why should Government pay it? A patta will be issued in favour of the landholder or the ryot. Then, there is no excuse for the Government to pay anybody from the public money, the tax-payer's money. Government are going to pay Rs. 17 crores to benefit the intermediaries. As Sri R. Suryanarayana Rao put it, the Council and the Assembly are overweighted with representatives of the intermediaries. History will say that we have wasted public revenues and we have passed this legislation for the purpose of giving power into Government's hands to exercise patronage to distribute the lands to whomsoever they like and to assist their intermediaries. Only with these objects clause 3 has been introduced. I oppose this clause. In form and in substance, this clause ought to be condemned and condemned vehemently."

SRI B. NARAYANASWAMI NAYUDU :—" Sir, it is said that the land should vest in the Government free from all encumbrances against the Government. Sir, if clause (e) is perused, it says 'the principal or any other landholder and any other person whose rights stand transferred under clause (b) or cease and determine under clause (c), shall be entitled only to compensation from the Government as provided in this Act.' Therefore, Sir, it is not only the principal or any other landholder, but also any other person whose rights stand transferred under clause (b) will be affected. I ask, Sir, is the other person not a ryot?"

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THE HON. SRI KALA VENKATA RAO :—" No, Sir."

SRI B. NARAYANASWAMI NAYUDU :—" Why, Sir? He is also a ryot under clause (b)."

MR. PRESIDENT :—" Please explain clause (e)."

SRI B. NARAYANASWAMI NAYUDU :—" It says, ' the principal or any other landholder.' It refers only to that person whose rights stand transferred under clause (b). He is the person whose right is transferred and not any other person. Therefore, there is no use if the right is transferred with that encumbrance on the ryot . . ."

MR. PRESIDENT :—" Please read it along with clause 11."

SRI B. NARAYANASWAMI NAYUDU :—" Clause 11 is different. That section provides for the grant of a patta whereas encumbrance is different."

MR. PRESIDENT :—" The hon. Member says that under clause (e) encumbrance is transferred. This clause (e) cannot possibly refer to encumbrance because clause (b) deals with it. The rights of the encumbrancer is not transferred. If the hon. Member's interpretation is correct, then the rights of the ryot in the land also may stand transferred. But, otherwise, the rights of the mortgagee is not transferred when the ryot's interest is transferred."

SRI B. NARAYANASWAMI NAYUDU :—" The rights of the ryots should be transferred free of all encumbrances."

12-45 P.m. MR. PRESIDENT :—" I am only putting it to you, because I understand it in that sense; if you can canvass the other point, I shall listen to you. My point is that the encumbrance as between the encumbrancer and the encumbrancee is also extinguished. I just want to know whether you can tell me, by means of this provision, that the mortgage itself, as between the mortgagor and the mortgagee is also extinguished."

SRI B. NARAYANASWAMI NAYUDU :—" As for the rights they have got, they are only in respect of the compensation."

MR. PRESIDENT :—" In that case, the mortgagee has got the right to proceed against the landlord. The whole point is this. Even as in the ryotwari area, supposing a tenant A mortgages his land to B, when the question of Government's rights comes in, the Government are to take the land free of all encumbrances as between the mortgagor and the mortgagee. These encumbrances do not affect the Government at all. A similar provision is sought to be enacted in this clause. It does not say that the encumbrances created by A are extinguished altogether. But the moment A gets a patta in respect of the land from the Government you may take it that these encumbrances attach themselves to the land. I think the hon. Member knows the relevant section in the Transfer of Property Act. Even in respect of a

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mortgagee who had no interest in the land yet when he gets the interest in the land, the mortgage attaches itself to it. This will satisfy a legalistic mind."

SRI B. NARAYANASWAMI NAYUDU :—" That has to be argued from the point of view of law."

MR. PRESIDENT :—" It is not a question of law."

SRI B. NARAYANASWAMI NAYUDU :—" Why not? Then why put the rights of the ryots in the Government? It is not a question of the Government's admission or my admission. It is the question of the language of this Bill. There is here a case of transfer of property to the Government. When the property goes back to the ryot on a ryotwari patta, by virtue of the language of this clause, any mortgages that might have been created before the Government's taking possession of the land, will also be extinguished."

* SRI M. NARAYANA MENON :—" Sir, the difficulty felt by the Hon. Leader of the Opposition in fact, does not arise, so far as the vesting of the entire estate in the Government, is concerned. The word 'Estate' has been defined in the Act of 1908, and that definition shows that by this clause, the rights of the ryots in the estate are not taken over by Government. It is the right of the zamindar or the inamdar that vests in the Government, and not that of the ryots. For instance, what is stated in clause 11 is 'Every ryot in an estate shall, with effect on and from the notified date, be entitled to a ryotwari patta in respect of (a) all ryoti lands . . . so that as soon as the notification is made, the ryots are entitled to a patta for all the ryoti lands in their possession, so that what is vested in the Government under section 3 is only the right of the zamindar or the inamdar, and not that of the ryots at all. If we read section 3 with this idea in mind, the difficulty felt by my hon. Friend, Dr. John, immediately disappears. The first portion of clause 11, i.e., 11 (a) is concerned with the repeal of the Permanent Settlement.

"Then, Sir, I would only say one word about the expression 'free of all encumbrances.' We are proceeding with this legislation on the basis that the zamindar or the inamdar is really an agent for the collection of revenue, and in the case of the inamdar, he is allowed to appropriate it, whereas in the case of the zamindar, he is allowed under certain conditions that have been prescribed, to appropriate a portion of it, and to pay the balance as peishkush to the Government. When the Government take possession of such an estate, managed by the inamdar or the zamindar, any encumbrances created by him certainly cannot affect the principal, i.e., the Government. The agents' encumbrances do not affect the principal, i.e., the Government which is superior with a superior right unless the agent has been authorized to create such encumbrances by the principal. I submit, therefore, Sir, that there is no difficulty at all if we read clause 3 in conjunction with clause 11.

"There is no difficulty either, with regard to the forests, pasture lands, etc. If a ryot is in possession of a pasture land, his right

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does not vest in the Government; only a superior right vests in the Government, so that the ryot will continue to be in possession, and will continue to exercise all his rights, inherent in him, prior to the passing of this legislation. Therefore, Sir, there is nothing to object to in this clause."

* SRI K. NATARAJAN :—" Sir, I would like to oppose the amendment that has been moved. And before doing so, I would like to say in a few words, the object of the clause before us, now on the anvil. There are three types of villages in our Province—the ryotwari villages, the zamin villages and the inam villages. Till now, in law, the Government were the owners in respect of the ryotwari villages; in respect of the zamin villages, the zamindar is the proprietor and if he is the owner of the melwaram right he is the proprietor of the melwaram right, and if of the kudiwaram right, he is the proprietor of the kudiwaram right. A similar reasoning holds good with the inamdar also."

MR. PRESIDENT :—" The Government are the owners of all these types of lands ultimately."

* SRI K. NATARAJAN :—" With due respect to the Chair, I would submit that the Government cannot be called owners in any sense, because they do not pay any tax or quit-rent; on the other hand, they receive the peishkush or quit-rent. Now the zamins are sought to be abolished. The question is who is the owner of these lands after abolition? If the melwaram rights of the zamindars and the inamdars are to be abolished, obviously the Government are to be vested with those rights. So, by reason of the passing of this legislation, the Government will become the owners, and all rights of ownership shall vest in them. So, as regards ownership, the Government's name will have to be mentioned, wherever hitherto the zamindar or inamdar was mentioned. But for this clause, there will be what is called a vacancy in the ownership. That is why there is the necessity for this clause that on and from the notified date the Government will be the owner of these lands, after the zamindar or the inamdar has ceased to be the owner thereof."

MR. PRESIDENT :—" But I suppose the hon. Member understands the objection raised by Sri Narayanaswami Nayudu."

* SRI K. NATARAJAN :—" The moment the zamindar or the inamdar ceases to be the owner of these lands, the rights which were vested in them, either as the melwaramdar or the kudiwaramdar or the both waramdar of these lands, are now transferred to the Government. There is therefore a case of legal transfer of the ownership rights to the Government. Then comes the question of dispossession; and the clause says: 'Provided that the Government shall not dispossess any person of any land in the estate in respect of which they consider that he is *prima facie* entitled to a ryotwari patta . . .'. The ryots get a patta in respect of lands in which they had some rights previous to the passing of this legislation; and the landlord shall get a patta in respect of lands in which he had some rights previously. The encumbrances that

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might have been created shall cease only as against the Government, and not as against the parties, i.e., the landlords and the tenants, i.e., the ryots. And here I have to differ from my hon. Friend, Mr. Narayana Menon, who adopted very different reasons . . .

MR. PRESIDENT :—“ They need not be explained. Let us hear your reasons.”

* SRI K. NATARAJAN :—“ So, there are three processes involved in the matter—the vesting of all rights in the Government, the transfer of all rights to the Government, and then the dispossession comes in. The question of vesting of the rights, and the subsequent dispossession are two different things.”

MR. PRESIDENT :—“ The Government are the owners of these lands.”

* SRI K. NATARAJAN :—“ With great diffidence, I wish to submit that it cannot be said that the Government are the owners of these lands, whether zamindari or inam lands.”

MR. PRESIDENT :—“ I meant only the ultimate right.”

* SRI K. NATARAJAN :—“ Even that does not vest in the Government. The right of the Government has been so far to get some peishkush or quit-rent.”

MR. PRESIDENT :—“ I know, so far as inams are concerned, the Government can sell away a portion or the whole of an inam village, or even the ryots' holdings in that village.”

* SRI K. NATARAJAN :—“ Yes, for arrears of peishkush, under the Revenue Recovery Act. That itself clearly shows that the Government have to get some arrears of peishkush; so their right is only to get some quit-rent or peishkush.”

MR. PRESIDENT :—“ I only meant it in that light.”

* SRI K. NATARAJAN :—“ That is why I said, that if the grounds advanced by my hon. Friend, Mr. Narayana Menon, were to be accepted, they would be dangerous to the Government. There must be some provision somewhere where the right is transferred to. The proviso says :

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‘ Provided that the Government shall not dispossess any person of any land in the estate in respect of which they consider that he is prima facie entitled to a ryotwari patta—

(i) if such person is a ryot, pending the decision of the Settlement Officer as to whether he is actually entitled to such patta ;

(ii) if such person is a landholder, pending the decision of the Settlement Officer and the Tribunal on appeal, if any, to it, as to whether he is actually entitled to such patta ;

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'There is no distinction made here. As regards Mr. Narayanaswami Nayudu's point, it is not the case that all communal lands and porambokes vest only in the ryot or the landholder. Some communal lands and porambokes vest in the landholder and some in the ryot. Under sections 20 and 21 of the Estates Land Act, when the communality of the land ceases, the Collector has to decide whether the land should vest in the landholder or the ryot as the case may be. Similar is the position with regard to pasture lands and tank-beds.'

MR. PRESIDENT :—“ His point is that if any pasture land or a tank is already in the occupation of the tenant, that should not be taken away from him.”

* SRI K. NATARAJAN :—“ Then what about lands in the occupation of the landholder? The Government want that no distinction should be made between the landholder and the ryot.”

MR. PRESIDENT :—“ Sri Narayanaswami Nayudu wants a distinction to be made.”

* SRI K. NATARAJAN :—“ The Government are impartial.”

* DR. SIR A. LAKSHMANASWAMI MUDALIYAR :—“ Sir, I have only one point to raise. Under clause 3, the entire estate vests in the Government with effect from the notified date. Under clause 11 every ryot is entitled to get a ryotwari patta. The ryot does not get the patta on the notified date. Some ryots will undoubtedly get a ryotwari patta, but others cannot get it. Certain conditions mentioned in clause 3 have got to be fulfilled and the settlement officer has to decide the question. While the Government will be in the possession of the entire estate on 1st April 1949, all ryots will not be entitled to ryotwari pattas on 1st April 1949. There is a lacuna here. Suppose a third party has got a usufructuary mortgage of some land, what is to happen before these things are settled? Will the third party be in a position to enjoy the usufruct of the land? I want to know how the Hon. Minister proposes to bridge this lacuna which is bound to occur at least in some cases? ”

MR. PRESIDENT :—“ Suppose there is a ryot A and he has given a usufructuary mortgage of his land to B and B is in possession. The question is whether the Government can dispossess B before they issue a patta to A.”

DR. SIR A. LAKSHMANASWAMI MUDALIYAR :—“ Can B proceed with the enjoyment of his usufruct, because it is said that the land is transferred to the Government free of encumbrances? B cannot have any right so far as the Government are concerned.”

MR. PRESIDENT :—“ The proviso says that the Government shall not dispossess any person of any land in the estate in respect of which they consider that he is *prima facie* entitled to a

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ryotwari patta. If A is entitled to a ryotwari patta for the land, he cannot be dispossessed. If the mortgagor cannot be dispossessed, the mortgagee also cannot be dispossessed."

* DR. SIR A. LAKSHMANASWAMI MUDALIYAR :—
" Suppose there is a dispute with regard to the possession of the land by A, and B has taken it on the hypothesis that A has a right. Would B be entitled to enjoy the usufructuary right without A's right being settled? "

MR. PRESIDENT :—" If the position of the tenant is doubtful, who can help it? I will leave it to the Government to decide it. I am only trying to understand the matter."

DR. V. K. JOHN :—" The proviso to clause 11 (b) says :

Provided that no person who has been admitted into possession of any land by a landholder on or after the 1st day of July 1945 shall, except where the Government after an examination of all the circumstances otherwise direct, be entitled to a ryotwari patta in respect of such land.

That is an example of the difficulty which Dr. Lakshmanaswami Mudaliyar is pointing out."

MR. PRESIDENT :—" That difficulty arises on account of the fixing of the date there."

THE HON. SRI KALA VENKATA RAO :—" I am sorry that in spite of the answer I gave yesterday to the point raised, I have not been able to clear the doubts. The Government want to abolish the zamindari system and introduce the ryotwari system. In order to introduce it we want certain rights. Under the zamindari system there were certain rights both in the landholder and in the occupancy ryots of the estate. Now we are taking over the rights of the ryots as well as the rights of the zamindars. As far as the landholder is concerned we are taking away his whole estate, his right to collect rent, subject to the payment of compensation. There is that corpus—the landholder's right in the estate. If it is mortgaged in any form and if there are maintenance holders, every one of them has a right to proceed against the corpus and get his share.

" The other point is whether in transferring the rights of the ryots to the Government anything has happened to disturb the rights of the creditors or some others who may have lent money to these ryots. As I have explained yesterday, clauses 3 (b) and 3 (g) read with clause 11, will show that there is no gap between the transfer of the estate to the Government on the notified date and the re-issue of pattas. Even under the Estates Land Act, the occupancy tenant is entitled to get a patta. Really that ought to have been conclusive proof of his ownership, but unfortunately the amarakam accounts are not up to date. The names of all the ryots are not entered there. That is why we have used very cautious

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language here and in clause 11 and in other places so that the existing rights of the ryots are not at all disturbed. If we had any other purpose, we would not have brought forward this Bill at all. As Dr. John has charged us, it is to give some rights to these people that we have brought forward this Bill. We have had these two clauses re-examined more than once with all possible care and we have found that the objections raised by Mr. Narayanaswami Nayudu are not borne out by a reading of the clauses 3 (b) and 3 (g) along with clause 11.

“ Sir, there is another aspect to this question. Mr. Narayanaswami Nayudu’s apprehension is this. Suppose there is a pasture land or a ferry or a tank in the holding of a ryot, will that be transferred to the Government. I say ‘No’. That is not our purpose. When a person gets a patta for a holding, he is entitled to dig a tank and use it.”

MR. PRESIDENT :—“ But clause 11 refers only to ryoti lands.”

THE HON. SRI KALA VENKATA RAO :—“ Am I not entitled to dig a tank in the ryoti land for the purpose of agriculture? ”

SRI B. NARAYANASWAMI NAYUDU :—“ It is only for the purpose of agriculture.”

MR. PRESIDENT :—“ If the land was originally a ryoti land used for agriculture and subsequently converted into a tank, it may be allright. Suppose a poramboke land is taken over from the zamindar and formed into a tank, will that tank also come in? ”

THE HON. SRI KALA VENKATA RAO :—“ It does not come in for the simple reason that under section 20-A of the Estates Land Act, the Collector should declare that land was not required for a communal purpose.”

MR. PRESIDENT :—“ Suppose it is a tank formed 100 years ago by a tenant at his own expense; will it go along with the ryoti land? ”

THE HON. SRI KALA VENKATA RAO :—“ If it is a poramboke land, you must get the permission of the Collector. Suppose I have got ten acres of ryoti land and I set apart two acres out of it for pasture, the question is : will this land go to me. Yes, it will, because it is not pasture land in the sense of what is sought to be vested in the Government. About other types of pasture lands included in the holding of a ryot, patta is given to the holding. It is so clear.”

SRI B. NARAYANASWAMI NAYUDU :—“ You say ‘ ryoti land ’ in clause 11.”

THE HON. SRI KALA VENKATA RAO :—“ What is the holding of a ryot except ryoti land. There is no other type of land except ryoti land. Apart from all these, because the point was

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raised by Mr. Narayanaswami Nayudu who is a friend of the zamin ryots, I had the clause examined once again to see whether any mistake was committed, because I do not want the rights to the ryots to be affected"

MR. PRESIDENT :—" The patta may consist of lands under cultivation. But other waste lands or forest lands may be given as pasture lands. They may not be included in the patta. There may be a separate agreement by which the tenant would be paying something to the zamindar. Similarly a tank might have come into existence on land which is not ryoti land but old waste or forest land. The question is whether such cases will be covered by ' ryoti land '."

THE HON. SRI KALA VENKATA RAO :—" Even if any doubt is created, the simple fact that he is enjoying something which was not his own and has through lapse of time become his own, will enable him to establish his right."

MR. PRESIDENT :—" Why do you say that it is not his own? "

THE HON. SRI KALA VENKATA RAO :—" I have used the word ' if '."

MR. PRESIDENT :—" The zamindar or the inamdar was perfectly entitled to grant the pasture lands."

THE HON. SRI KALA VENKATA RAO :—" Once the landholder inducts a person in any land in the estate, the right of occupancy naturally goes to the person inducted."

SRI B. NARAYANASWAMI NAYUDU :—" If ryoti lands had been omitted in clause 11 it would have been safe."

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THE HON. SRI KALA VENKATA RAO :—" But my point is that the word saves the whole thing."

MR. PRESIDENT :—" The Hon. Minister may have this in view when the rules are made. The ryoti lands may present some difficulty."

THE HON. SRI KALA VENKATA RAO :—" If any difficulty arises, we will certainly examine and will see that the rightful man gets it."

MR. PRESIDENT :—" I wish the Hon. Minister makes a note of it."

THE HON. SRI KALA VENKATA RAO :—" Yes, Sir."

" Regarding ferries or tanks or whatever it is, if they are within a ryot's holding, it is perfectly certain that under the existing Bill, they will go to him. Regarding the other points raised

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by my hon. Friend Dr. John, they go wide off the mark. Under these circumstances, Sir, I do not think, there is any reason why these amendments need be accepted at this stage."

The amendments were put and declared *lost*.

A poll was demanded and the division bell was rung.

THE HON. SRI KALA VENKATA RAO :—" Can I sit here, Sir? "

MR. PRESIDENT :—" You can sit anywhere you like; but you must not vote."

THE HON. SRI KALA VENKATA RAO :—" I will not rise, Sir, and even if by mistake I rise, you will certainly not count me, Sir." (Laughter.)

The House divided thus :—

Ayes.

- | | |
|--|---|
| 1 Dr. V. K. John. | 6 Sri M. D. T. Kumaraswami Mudaliyar. |
| 2 Abd I Latif Farookhi Sahib Bahadur. | 7 Mrs. Mona Hensman. |
| 3 Dr. Sir A. Lakshmanaswami Mudaliyar. | 8 Sri R. Suryanarayana Rao. |
| 4 Sri B. Narayanaswami Nayudu. | 9 K. Uppi Sahib Bahadur. |
| 5 „ A. Gopalakrishnaaya. | 10 K. T. M. Ahamed Ibrahim Sahib Bahadur. |

Noes.

- | | |
|---|--|
| 1 The Hon. Sri O. P. Ramaswami Reddiar. | 14 Dr. U. Rama Rao. |
| 2 The Hon. Dr. T. S. S. Rajan. | 15 Sri K. Natarajan. |
| 3 The Hon. Sri K. Madhava Menon. | 16 „ T. Purushotham. |
| 4 The Hon. Dr. S. Gurubatham. | 17 „ M. K. Sunda. arama Ayyar. |
| 5 Sri M. Narayana Menon. | 18 „ S. J. yarama Reddiar. |
| 6 „ B. Bhima Rao. | 19 Mr. A. S. T. F. Rodriguez. |
| 7 „ L. Subbarama Reddi. | 20 Sri B. Veeraswami. |
| 8 „ S. K. Satagopa Mudaliyar. | 21 „ N. Ranga Reddi. |
| 9 „ P. Veerabhadraswami. | 22 „ V. Nagappa Chettiar. |
| 10 „ M. Narayana Rao. | 23 „ G. Venkata R. ddi. |
| 11 „ N. Saa ara Reddi." | 24 K. Muhammad Rahimatullah Sahib Bahadur. |
| 12 „ N. Venkatachalamaji. | 25 Sri S. B. Adityan. |
| 13 „ C. N. Muthuranga Mudaliyar. | |

Ayes : 10 ; Noes : 25 ; Neutral : Nil.

The amendments were *lost*.

SRI B. NARAYANASWAMI NAYUDU :—" Mr. President, in sub-clause 3 (b) after the word ' vest in them ' add the words ' in trust for the village community of the villages concerned.' We know, Sir, how under sub-clause (b) the entire estate is to be transferred to the Government. When they do it, we do not see any indication as to how it would all be dealt with. We have heard from the Hon. Minister the analogy of the calf going with the cow."

THE HON. SRI KALA VENKATA RAO :—" Is it not true and to your own experience? "

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SRI B. NARAYANASWAMI NAYUDU :—“ My experience apart, Sir, it is on the same footing as along with the purchase of Chandramathi by Nakshatreya, her son Logidasa also was transferred to him. When you get the cow, Chandramathi, you must also get the calf ‘ Logidasa ’ and you get all the communal lands, forest lands, pasture lands and the rest. I will come to lanka lands later on. The real question is; to whom are you going to give them and for what purpose are they being taken over by the Government and there is no indication in the Bill with regard to the disposal of those lands. Lanka lands are a valuable item and with regard to them we are going to deprive even the ryot of his occupancy right. Of course the Hon. Minister was kind enough to say that the pasture lands in the amarakham of a ryot will not be touched. I do not see what the purpose is and what guarantee the Government are giving to the ryots saying that the necessary pasturage and forest lands will be provided for the ryots. Is it that those things will be transferred to the villages concerned or anybody or everybody in the whole Province. There must be an indication in the Bill as to the course proposed to be followed or at any rate a pronouncement as to what is proposed to be done with regard to the lands which they propose to take over; how they are going to be given back to the ryots and how they would deal with them. Some such thing is necessary. Sir, you suggested that the words ‘ in trust for the village community ’ will apply to all the items in brackets. I do not want to say that they must take the rents which are payable by them. There is no doubt that they want to make the villages republics and transfer to them the duty of collecting rents. If it comes to it I will certainly vote for it. I will certainly like to put the lands into the hands of the village republics and ask them to deal with them as they please. It ought to be established and the Prakasam’s proposed Bill envisages some such thing. Whatever it may be, there should be a pronouncement by this Government explaining the policy which they are formulating with regard to the lands which they are taking over, the pasture lands, forest lands. For whose benefit are you going to take them? The 36,000 acres of lanka lands represent the pink of the lands and may I ask whether the political sufferers come into the picture? ”

THE HON. SRI KALA VENKATA RAO :—“ The hon. Member must have read the announcement in the papers that lanka lands will not be given to political sufferers.”

SRI B. NARAYANASWAMI NAYUDU :—“ But let us have a formal announcement explaining the policy of the Government with regard to the disposal of the lands to be taken over by them pursuant to this clause.

“ There are valuable forest lands and pasture lands in Krishna district. Are you going to assign them or sell them or make them a trust for the public at large; they can fetch enormous premiums by way of lease to the villagers themselves. Some such thing is

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necessary and I therefore solicit from the Government an indication as to their policy with regard to the acquisition of these 'Lohidasas'."

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—" I second the amendment."

MR. PRESIDENT :—" But the amendment that has been proposed by the hon. Member does not seem to convey what he has in his mind; it refers to the entire estate."

SRI B. NARAYANASWAMI NAYUDU :—" I am not going to press my amendment for a division but I am only asking for a declaration of their policy. I should, however, be glad if the entire estate including these things are held in trust for the villages concerned."

MR. PRESIDENT :—" The question is in sub-clause 3 (b), after the words 'vest in them' add the words 'in trust for the village community of the villages concerned'."

THE HON. SRI KALA VENKATA RAO :—" Well, Sir, you were satisfied on that point yesterday. Only he wants a repetition of what has been said. Government, if at all, get into possession of any land consequent upon the abolition of the Estate, it will be dealt with in accordance with the land assignment policy of the Government. The land assignment policy of the Government will be declared shortly and will be placed for discussion before the House. Our policy is this which I told you yesterday. If there is any such valuable land as Mr. Narayanaswami Nayudu pointed out, we will use it for State purposes. The other day Mr. Lakshmanaswami Mudaliyar also suggested that this type of land can be used for collective and co-operative farming. If there is any isolated part of land, we will give it to Harijans, Backward Classes and landless poor people. I hope this will satisfy the hon. Member, and I request him to withdraw his amendment."

SRI B. NARAYANASWAMI NAYUDU :—" Sir, in view of the assurance given by the Hon. Revenue Minister that he will place the assignment policy of the Government before this House, I withdraw my amendment."

The amendment, by leave of the House, was withdrawn.

MR. PRESIDENT :—" I now adjourn the House for lunch."

The House adjourned for lunch.

(After lunch—2-30 p.m.)

Clause 3 (d).

SRI B. NARAYANASWAMI NAYUDU :—" Sir, the proviso to sub-clause (d) of clause 3 says—

'Provided that the Government shall not dispossess any person of any land in the estate in respect of which they consider that he is prima facie entitled to a ryotwari patta.'

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The amendment which I seek to *substitute* is as follows:—

For the words '*in respect of which they consider that he is prima facie entitled to a ryotwari patta*,' substitute the words '*which is held by a ryot under a patta from the landholder concerned or is included in a ryoti holding or landlord's holding as per the amarakam or other village accounts of the estate or estates concerned*.'"

MR. PRESIDENT:—"Do you not think your amendment restricts the scope of the proviso instead of widening it."

SRI B. NARAYANASWAMI NAYUDU:—"The Government by this proviso, say that he must be *prima facie* entitled to a ryotwari patta. They can come to the conclusion only after perusing, what may be called, the patta from the landholder or a ryoti holding or landlord's holding as per the amarakam account or *adangal* account or other village accounts of the estate concerned. Sir, I must file all these accounts before the Settlement Officer so that the Government may not dispossess any land conferred upon me."

MR. PRESIDENT:—"Are you afraid that these accounts may be excluded."

SRI B. NARAYANASWAMI NAYUDU:—"Not that it may be excluded. I have got to file these accounts before the Settlement Officer seeks to dispossess me. By this amendment, he cannot dispossess me if I file these account books before him. The Settlement Officer will hold an enquiry whether one is actually entitled to such patta. Pending the decision of the Settlement Officer, they can dispossess me of the land. The question is, whether the Government are *prima facie* entitled to issue a *firman*? Is it right on the part of the Government to say that I am not entitled to the land because there is no *prima facie* evidence?"

MR. PRESIDENT:—"You restrict the evidence to amarakam and other village accounts."

SRI B. NARAYANASWAMI NAYUDU:—"Sir, I may add even sale deeds."

MR. PRESIDENT:—"Suppose a man had paid money to the zamindar and took receipt for it. But no entry was made in the village account. It was not shown even in the amarakam account. Is this amendment going to exclude such evidence?"

SRI B. NARAYANASWAMI NAYUDU:—"Sir, in the dis-possession of a ryoti land, there may arise a conflict. We are not now concerned with that at all."

MR. PRESIDENT:—"Nor am I concerned with that at all. My only fear is that your amendment restricts any other evidence that can be produced."

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SRI B. NARAYANASWAMI NAYUDU :—“ The clause says that the Settlement Officer must be satisfied with it.

‘ Provided that the Government shall not dispossess any person of any land in the estate in respect of which they consider that he is *prima facie* entitled to a ryotwari patta,’ is not the question. The question is, Government shall not dispossess me if I file the amarakam account. The Government shall not dispossess me if I file the adangal account. My point is that the decision whether he is *prima facie* entitled to a ryotwari patta, is now made to vest in the Government notwithstanding the production of these documents.”

MR. PRESIDENT :—“ Why do you bring in the words ‘ entitled to patta ’ ? ”

SRI B. NARAYANASWAMI NAYUDU :—“ Because the words are in the proviso referred to by me.”

MR. PRESIDENT :—“ Anyhow, your amendment restricts any such evidence.”

SRI B. NARAYANASWAMI NAYUDU :—“ There is also the over-all restriction notwithstanding the production of these documents.”

MR. PRESIDENT :—“ The word ‘ entitled ’ is not there.”

SRI B. NARAYANASWAMI NAYUDU :—“ Sir, am I to go to the Government to satisfy them or will not production of these documents be sufficient. The Settlement Officer will have to decide whether he is entitled to such a patta or not. Therefore that decision still hangs.”

MR. PRESIDENT :—“ You also want that to be removed.”

SRI B. NARAYANASWAMI NAYUDU :—“ Sir, I am not asking for the removal of it. If I have all these documents, I need not go to the Government at all. The real point is that if I file the patta or amarakam account or *adangal* account, the Government will have no voice to dispossess me.”

MR. PRESIDENT :—“ Under this proviso, do you think that they have got the right to dispossess you of the land.”

SRI B. NARAYANASWAMI NAYUDU :—“ Unless he is *prima facie* entitled to a ryotwari patta.

“ The decision whether any person is *prima facie* entitled to a ryotwari patta rests with the Government. My amendment takes away even that option. Now, if he files these documents, he cannot be dispossessed.”

MR. PRESIDENT :—“ That is true. But what about the restriction. Your amendment restricts evidence.”

SRI B. NARAYANASWAMI NAYUDU :—“ So far as my amendment goes, it takes away the powers of the Government to

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dispossess me of the land. That is after all, the real thing so far as the ryot is concerned. The question really is should the power of dispossession vest now in the Government."

MR. PRESIDENT :—" Even according to the amendment, are not the Government entitled to say that it is not a proper patta? "

SRI B. NARAYANASWAMI NAYUDU :—" The Government cannot say it unless the Settlement Officer decides it. There are two things. The Settlement Officer must enquire and give the patta to him. Until that time he may be dispossessed or may not be dispossessed. According to the Government, if he is *prima facie* entitled to a ryotwari patta, he will not be dispossessed. But if there is no *prima facie* evidence the Settlement Officer can take possession of the land. Then the only way open to the ryot is to approach the Government and get the order from the Government that he is *prima facie* entitled to it. Otherwise, he is bound to be dispossessed. Therefore, Sir, the question is, even after filing those things, are the Government still liable to hold adjudication. (Interruption.)

" Sir, what I say is that pending the decision of the Settlement Officer, the patta must be conclusive; the amarakam account must be conclusive; the *adangal* account must be conclusive; and other village accounts must be conclusive. And there should be no power reserved to the Government to dispossess me provided I have got, what is called, a title in respect of the land. Therefore, it makes all the difference."

MR. PRESIDENT :—" What you want is that village accounts must be conclusive until such time the Settlement Officer decides it. You know what is being said about the zamindars. Suppose the village accounts are tampered with. What do you say about it."

SRI B. NARAYANASWAMI NAYUDU :—" Sir, if it is a question of conflict between two ryots, that is a different question altogether. But when there is no conflict of that type."

MR. PRESIDENT :—" You have to decide to leave the decision either to the Government or to the zamindar."

SRI B. NARAYANASWAMI NAYUDU :—" Sir, there is no question of zamindar at all. There is only the question of Settlement Officer. What else can he do? He will simply produce the patta or produce the amarakam accounts."

MR. PRESIDENT :—" Suppose the ryot claims he is entitled to a particular land; the village accounts may not support him and yet the Government may say he is entitled. Is that not so?"

SRI B. NARAYANASWAMI NAYUDU :—" That is an over-riding provision. My point is the Government may issue an order of dispossession."

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MR. PRESIDENT :—“ Because you have taken away the word ‘entitled’ all this trouble arises. You have not canvassed the point that the man may be entitled to it.”

SRI B. NARAYANASWAMI NAYUDU :—“ The question whether the dispossession of the ryot should be left to the Government or whether it should be left to the decision of the Settlement Officer on the *prima facie* production of the title deeds is the point here. What I say is that the Government’s power to issue an order of dispossession should be taken away.”

MR. PRESIDENT :—“ But that must be done only on the recommendation of the Settlement Officer.”

SRI B. NARAYANASWAMI NAYUDU :—“ That comes later on; and until the Settlement Officer decides—it may take two or three or four years—what is the position? The issue of patta will be decided by the Settlement Officer after the estate is surveyed and settled; and until then the Government will have this power. Why not the Government say definitely: ‘if there is *prima facie* title we will not interfere.’ The whole question resolves itself into this: firstly, the holding is transferred; secondly, he is to be dispossessed: I ask, how do you protect him from dispossession? It is not by mere production of patta, or the sale deed or the holding accounts—all these things will not save him from dispossession. If the Government is prepared or inclined to dispossess him, it can issue an order. No doubt, when the Settlement Officer decides the question three or four years later, he may satisfy himself as to the title and then perhaps put him back in possession or confirm the dispossession order made by the Government. But, as I said, why should the Government have this power at all? You can easily say here: ‘wherever there is a patta or rent account or amarakam accounts and wherever it is shown that the person is the occupier of the holding, he shall not be dispossessed’.”

MR. PRESIDENT :—“ The proviso to sub-clause (d) reads: ‘Provided that the Government shall not dispossess any person of any land in the estate in respect of which they consider that he is *prima facie* entitled to a ryotwari patta, pending the decision of the Settlement Officer.’ Do you really think that according to the wording here, the Government can dispossess anybody? Are they not bound to wait till the decision of the Settlement Officer is made?”

SRI B. NARAYANASWAMI NAYUDU :—“ They can dispossess the person even now, and afterwards the Settlement Officer may decide. My point is whether tomorrow the Government will not be entitled to issue an order of dispossession saying that he is not *prima facie* entitled. I ask whether you ought to be clothed with such a power at all. It is not a mere language question. Step by step you will find in this Bill not merely what we call the

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introduction of the ryotwari settlement, but the actual determination of certain rights of the ryot. That is why, Sir, I am arguing my point even at the risk of repetition. In one place, first of all, it says the land shall be vested in such and such a person; secondly, it says he shall be dispossessed if the Government think he is not entitled to patta. Sir, I commend this amendment to the acceptance of the House."

SRI A. GOPALAKRISHNAYYA :—"I second this amendment."

* SRI M. NARAYANA MENON :—"Sir, I oppose this amendment as it is unnecessary. The clause contains all the safeguards that are necessary in respect of the ryot whose dispossession is thought of under the proviso. The proviso says: 'The Government shall not dispossess any person of any land in the estate in respect of which they consider that he is *prima facie* entitled to a ryotwari patta.' The whole mistake lies in the fact that the hon. Member has not laid sufficient emphasis on the words '*prima facie*'. The word 'entitled' implies that there is some sort of title thought of. The words '*prima facie*' show that there is some sort of evidence for that. So, if there is some sort of evidence, though not conclusive, from which the Government can infer that the man has got a title, then he is *prima facie* entitled to the land. In order to enable the Government to come to such a decision, some kind of evidence is required and that should be produced. But what is contained in the amendment moved by my hon. Friend is that the Government shall not dispossess a ryot if he is holding under a patta from a landholder, or if the land is included in a ryoti holding or landlord's holding as per village accounts. The amendment says that the Government shall not interfere in such cases and dispossess the ryot. As pointed out by the Chair, there may be several other matters from which also the Government can come to the conclusion that *prima facie* the ryot is entitled to possession and shall not be disturbed. By this amendment, all those other circumstances will be displaced and the title of the ryot will be based only two things, viz., the production of the patta and the production of the village accounts. The provision made in the clause is much wider. If sufficient emphasis is laid on the words '*prima facie* entitled' then a ryot will not be dispossessed even until the decision of the Settlement Officer if he produces some evidence of title. Therefore, I cannot see any necessity for an amendment like this. Every sort of circumstance is provided for in the proviso though they are not categorically mentioned here. This amendment reduces the scope of the right which is already there, and therefore I oppose it."

* DR. V. K. JOHN :—"Sir, I would not have intervened in this debate but for Mr. Narayana Menon speaking on it. Last time he gave an interpretation from which the Hon. Minister and the hon. Mr. Natarajan differed. Now also he is, in my opinion, misreading the wording in the clause. The real objection is not

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so much to the words '*prima facie*' as to the words 'in respect of which they consider that he is *prima facie* entitled.' It is clear that in the Government's opinion he must be *prima facie* entitled. And what is the Government, if it is not to be some officer, some karnam, somebody who has to come to a conclusion in this respect? Whether he had the right or the title perhaps from time immemorial or not, after the passing of this Bill into law, he will have to be at the mercy of a very subordinate officer of Government; he must first of all see whether this gentleman, the Government official, will be so pleased as to consider that the ryot is *prima facie* entitled to a patta—that is the real objection. The hon. Mr. Narayana Menon forgets the words 'in respect of which they consider'; and in this case, the Government will naturally be some subordinate Government official."

MR. PRESIDENT:—"Suppose you remove those words and allow the proviso simply to read thus: 'the Government shall not dispossess any person of any land in the estate in respect of which he is *prima facie* entitled to a ryotwari patta.' In that case, who is to decide that?"

* DR. V. K. JOHN:—"He can go to a court immediately. If the jurisdiction of a court is not excluded, he can go to the court and get an injunction. But here, the Government must consider; the jurisdiction rests with Government and a subordinate officer of Government. My friend Mr. Narayanaswami Nayudu takes very serious objection to that and rightly so, whereas a member behind the Government benches ignores certain words here to which special attention should be given and interprets it in his own way. I should not be surprised if the Hon. Minister who always tries to meet fairly and squarely all objections raised by us will place another interpretation on it as he did last time."

MR. PRESIDENT:—"Why not the proviso be redrafted omitting the words 'they consider that'?"

* DR. V. K. JOHN:—"In that case, there can be no objection."

THE HON. SRI KALA VENKATA RAO:—"Here also I am very sorry my hon. Friend Mr. Nayudu in his anxiety that something is being taken away from the ryot is bringing a very wide interpretation which the Government never contemplated nor ever will contemplate. The question simply is this: As I have explained in the morning, land which is in the holding of any ryot will never be touched by the Government. In the case of private land to which the zamindar says he is entitled to patta and the ryot says he is entitled to it, both of them will be quarrelling. In fact, this clause will come in for action only after the question of grant of ryotwari patta is settled under clause 11. The ryot will come and say 'this is my land, I have been cultivating it for twenty

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years' and the zamindar also will come and say 'this is land where I have got private rights under the Estates Land Act; I am not going to leave it'.

"To limit this kind of disturbance only, this clause has been 3 p.m. put in. I can give a categorical assurance to the hon. Members of this House that no ryot who is holding and cultivating a land will ever be disturbed unless he is disturbed by the Settlement Officer and on appeal by the Tribunal. The Government have no interest and they do not want to take the land as between these two people. It is to provide for extraordinary cases like the one I have envisaged that this clause is necessary. In creating law, we have to provide more for exceptions than for normal happenings. Is it the idea, Sir, that the ryot should come and ask the Government for the patta; that is not at all the scheme of the Act; or is it that the Government should do nothing when something occurs in the course of the ordinary administration? For all these things, rules will be made and it will come before the hon. Members of the House and if any particular injustice is done, they can point it out to the Government for rectification. I do not, therefore, see any reason why this amendment should be accepted."

The amendment was by leave withdrawn.

Sub-clause (e).

DR V. K. JOHN :—"Mr. President, I move to omit the words 'from the Government' in sub-clause (e)."

"The clause says that any person whose rights stand transferred under this clauses shall be entitled to compensation from the Government. I have given notice of other amendments with the object that compensation is paid by the person or persons to the extent they are benefited by the transfer or determination of rights or acquisition of rights under this Act. The most important question, in my opinion, the most vital question is: Why should the Government pay from the public revenues about 17 crores of rupees which is the estimated amount now and which may be much more when actual figures are taken."

THE HON. SRI KALA VENKATA RAO :—"Mr. President, the idea of the hon. Member is that the ryot should pay for the cost of compensation. And with that idea in mind, he has given notice of a series of amendments one of which is the one under discussion. Of course we had a general discussion on that question but even if it is wanted that there should be a specific debate, I suggest that it may be related to some substantial clause on which a debate might issue. Of course the hon. Member has given notice of an amendment for the deletion of clauses 24 to 54 and the substitution of another clause."

MR. PRESIDENT :—"Is it that this will have to wait till that is reached?"

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THE HON. SRI KALA VENKATA RAO :—“ Not necessarily, Sir. The acceptance of that amendment by the House will be a virtual withdrawal of the Bill. What I was suggesting was that instead of discussing this principle over and over again, because he has given notice of a series of amendments with that object, he might discuss it on one particular clause.”

* DR. V. K. JOHN :—“ I will take it up now.

“ Our party met and decided to ask the Hon. Minister who are benefited by this Bill and the Hon. Minister was pleased to answer that question and his answer was : ‘ The beneficiary under this Bill is the ryot whether he be an intermediary or the actual cultivator of the soil.’ ”

MR. PRESIDENT :—“ I thought the hon. Member was always contending that the Government is also a beneficiary in that they are getting more income.”

* DR. V. K. JOHN :—“ He gave a definite answer to that question. On that, we decided to put to him the question : when that is so, why should they not pay compensation and why should the Government pay compensation. The Hon. Minister in his opening speech said that these ryots whether intermediaries or cultivating ryots, have been rack-rented for a hundred years and it is not fair and equitable that they should be asked to pay. In my speech commenting on the principle of the Bill I characterised this explanation of the Hon. Minister as blatant because it cannot hold water. If we accept the position that the zamindars and inamdars rack-rented the ryots for a hundred years and therefore, the ryots should not be asked to pay compensation though the Act benefited them, why should the inamdars and zamindars be given any compensation at all? The answer was it is on account of the lawyers that compensation has to be paid according to law. I ask : Are the persons rack-rented all these hundred years the ryots in occupation now? If property had changed hands, it is in the hands of their successors or the purchasers by way of sale or otherwise. Benefit will accrue to them and to say that the Government should pay for a benefit got by them is not equitable. In reply to this suggestion, the hon. Member said that the ryots in whose favour the pattas had been issued will be paying assessment to the Government and therefore the Government are paying compensation. The question is whether they would be paying more to the Government than they did to the zamindar or inamdar. As I said earlier, Sir, this Bill is for the purpose of assisting the intermediaries and I might use the language employed in the leading article of the *Hindu* of this morning.”

MR. PRESIDENT :—“ I thought that the hon. Member's attitude was that the zamindar was the owner of the land and we ought not to dispossess them without paying them adequate compensation.”

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* DR. V. K. JOHN :—"The question now is who is to pay the compensation."

MR. PRESIDENT :—"I thought your attitude was that, being the owner of the land, they should be paid adequate compensation and nobody should be expropriated."

* DR. V. K. JOHN :—"Now, Sir, I am on the point why is it that the person who is benefited is not asked to pay and why should it come from the public revenues of the Province. The answer is given in the leading article of the *Hindu* of to-day and there is a trenchant criticism there about this Bill. Suggesting that the land should go to those persons who can make the best use of the lands, the article says :—

If the objective is the welfare of the community he should be entrusted with the land who can put it to the best use irrespective of the particular name by which you call him. The kind of legislation which on considerations of pure party passions, many of the Congress Government have undertaken in the Provinces have ignored this fundamental principle and threatens to do injustice to lakhs and lakhs of people without any benefit to the general public and at much expense to them"

MR. PRESIDENT :—"It is in a different connexion altogether."

DR. V. K. JOHN :—"It is because of this fact, Sir, that the thoughtful sections of the public have opposed the measure including the Leader of the Opposition. (Laughter.)

"Now to go on with the leading article :

It is significant that the Government which have promoted anti-zamindari legislation now find that on the same logic, ryotwari land system also will have sooner or later to be "reformed". This kind of uprooting of existing systems without formulating new ones satisfactorily to take their place is not only foolish but fraught with the gravest danger and calculated to promote agrarian discontent on a colossal scale."

MR. PRESIDENT :—"I bring it to the notice of the hon. Member that this is not the opening speech and therefore, he will restrict his observations to the scope of the amendment proposed by him."

DR. V. K. JOHN :—"The leading article says :—

Landholder classes are now faced with a sense of insecurity and instability regarding their property rights and passing the land on for nothing to rich tenants the Government are now forced to whisper that if the latter were found to have unduly profited at the expense of the community, steps

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will be taken to deal with such ryotwari tenants and men in like position in the same manner as the zamindars were dealt with. The Provincial Government had not even the patience to await the recommendations of the Agrarian Reforms Committee."

MR. PRESIDENT :—" I thought the hon. the Leader of the Opposition said at one time that he had no time to read the papers."

* DR. V. K. JOHN :—" He has taken the advice from the Chair to read the papers. The greatest draw back of this Bill is that the public revenues are being depleted to the extent of 17 crores not to benefit the Government in any manner but to benefit the ryot most of whom are intermediaries. That is my real objection and the Government have not explained why the compensation they have fixed, whether it be the market value, or on the reduced value of the rents or even on the theory that the zamindar is merely a rent collector, should not be paid by the persons benefited but by the Government."

MR. PRESIDENT :—" May I put the question what is the benefit to the poor coolie who is drawing his hand cart when the Government spend lot of money on my education and on so many other things? What is the benefit that the man receives on amounts being spent on my education? "

* DR. V. K. JOHN :—" In course of time, all that will be changed; and the needs of the common man will be attended to."

MR. PRESIDENT :—" I suppose the ryot is not the common man! "

* DR. V. K. JOHN :—" Now, he has to pay the rent to the zamindar. We have passed the Rent Reduction Act. Hereafter, he has only to pay the rent which the Government fixes from time to time and it may be the Government will be losing some revenue on that account."

" But I am not on that point. Is it just that these rich tenants should not pay anything towards compensation? As stated in this morning's *Hindu*, these rich tenants are benefited to a very large extent and why should they not pay it. Why should the common man pay for it? Why should the money be taken from the public revenues to which we are contributing? Why should you want to enrich these rich tenants who get benefits under this Bill? "

MR. PRESIDENT :—" If statistics are taken, I am sure you will find that 90 per cent of the ryots are poor people. I am speaking this subject to correction by the Hon. Revenue Minister."

THE HON. SRI KALA VENKATA RAO :—" I said that already on the floor of the House."

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* DR. V. K. JOHN :—“ Sir, Dr. Subbaroyan—the person who once occupied the Ministership and the Prime Ministership—speaking in the other House said that there are ryots under him owning more than 400 acres of land. There are also people owning 1,000 acres of land.

“ Therefore, what I say is that to the extent he is benefited he has to shell out that money to the public revenues. Why should the Government pay? The Government should pay to the extent they are benefited. If the Government are taking away lanka lands or any other lands for distribution to their friends and relatives, the Government are benefited.”

MR. PRESIDENT :—“ May I know what is meant by the word ‘ Government’.”

DR. V. K. JOHN :—“ Government is a society organized for the purpose of administration to the good of the people.”

MR. PRESIDENT :—“ Of whom the ryot population form the majority.”

DR. V. K. JOHN :—“ But I say, the labouring classes and the landless population form the majority in this province. Therefore I suggest that it is not proper, equitable and fair for the Government to pay money to benefit these rich tenants, most of whom are intermediaries who rack-rent their tenants.”

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—“ Sir, I second the amendment.”

* SRI R. SURYANARAYANA RAO :—“ Sir, I rise to second the amendment. I think the Hon. Minister for Land Revenue was quite right in saying that by suggesting this amendment we are practically preparing the way for another amendment which is to come later on. Perhaps, on the discussion on this amendment will also depend the fate of that amendment.

“ Sir, we have been pleading in this House. There is nothing to scoff at it that this Bill intends to benefit a class of persons whom we call intermediaries. All of them may not be intermediaries. Some of them may be intermediaries; and some of them may be cultivating tenants. Having decided that, you should give compensation to the zamindars. Why should the State be asked to pay that compensation when the rights accrue to another party. If tomorrow, as the Hon. Minister for Land Revenue suggested, he is going to bring forward a Bill dealing with the codification of the Land Tenures in the province, the position of the actual cultivator would be strengthened.”

MR. PRESIDENT :—“ If you agree that the Government are going to make profit out of this Bill, why not the Government pay compensation out of this profit. Why do you unnecessarily labour this point.”

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* SRI R. SURYANARAYANA RAO :—“ Sir, apart from the reduction of rent that is being given to the tenants, the Government are going to get 50 lakhs of rupees every year and why should the Government pay out of other revenues.

“ I shall deal with the other point. The point is the Hon. Minister is conferring a benefit on a class of persons whom he is going to dispossess of their lands later on by a piece of legislation which he has promised. In the same way he is going to deal with the ryotwari pattadar. Is he going to compensate the ryotwari pattadars also later on. Is he going to compensate the ryotwari pattadar and the zamindari ryotwari pattadar when he brings forward legislation safeguarding the rights of the actual cultivator. When a right accrues to a person, we want that that person should pay and not the general tax-payer. The question whether compensation should be paid or not is a different question. I am not one of those who believe that compensation is necessary. But having decided to give compensation, let the people on whom you are conferring rights, be allowed to pay. Why should the Government pay? Sir, you raised the point that the Government are going to make money out of this transaction and that money can be paid out of it. What will be the ultimate result? We are getting 47 lakhs of rupees as peshkash. The Hon. Minister for Land Revenue said in one of his speeches, that the income from the zamindari estates would come to about one crore of rupees. But the amount of profit which the Government hope to gain by introducing this system will be about fifty lakhs.”

MR. PRESIDENT :—“ That is what I have said just now.”

* SRI R. SURYANARAYANA RAO :—“ But what about the staff they have to employ in order to take the place of the staff of the zamindaris. Would they not be compelled to increase the Revenue Divisions? Would they not employ more Tahsildars, and more Revenue Inspectors.”

MR. PRESIDENT :—“ I think this is the collection excluding all expenditure.”

* SRI R. SURYANARAYANA RAO :—“ I do not think that the Hon. Revenue Minister has any definite idea of what the income is going to be.”

THE HON. SRI KALA VENKATA RAO :—“ I have no precise figures.”

* SRI R. SURYANARAYANA RAO :—“ The Hon. Minister himself says that he has not got the precise figures. It is all problematical. Let us hope that he will make himself clear as to the amount of money that is to be spent on maintaining the staff required to administer the land revenue administration of the other one-third that is going to come into the hands of the Government. Therefore, I feel that it is but right that this amendment

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should be accepted. And if this amendment is accepted, automatically the other amendment which we are going to move, will become operative. We feel as the *Hindu* rightly said that these 17½ crores are going to be paid by the Government as compensation to prop up the rich tenantry who can afford to pay and that too at the expense of the general tax-payer. That is not a desirable thing. That is the only stand, the main stand which our Party has taken. With these words, Sir, I support the amendment."

* SRI M. NARAYANA MENON :—" Sir, I oppose this amendment. I think it is the Government that ought to pay compensation and not the ryot. The reason for this, is found in Mr. Prakasam's Report and also from the Permanent Settlement Regulation of 1802 and other associated Acts. In the Permanent Settlement Regulation Act of 1802, what is proposed is that that the zamindars should collect the rent at the prevailing rate from the ryots and take out of it a portion for themselves and give the balance to the Government. Now the zamindars are not collecting the rent as stated there but are collecting a little more. And not only that when they began to increase it and there was also a clamour from the side of the ryots that they were collecting much more than what is stated in the Act of 1802. Then there was an enquiry by the Government and in that enquiry also it was found that the zamindars were really collecting more but the then British Government did not take any step so far as the question was concerned. We have come to the year 1948. The zamindars have been collecting much more rent against the Act of 1802 and the Government are not doing anything to prevent it. Now, let me put this question. If I am robbed by some persons on the road, who is to come to my rescue? Is it not the Government? If it is not the Government who else will come to my rescue? And if the Government come to my rescue, am I to pay anything for it? So, the Government ought to have interfered in this matter long, long ago. If the Government have now realized that that matter should be rectified and if it is sought to be rectified under this Act, why should the ryots be asked to pay compensation to the zamindars for the rectification of their conduct? The Government are only correcting the mistake committed by them or correcting the wrong done to the ryots and it is now their duty to do that. Why should the ryots be penalized?"

MR. PRESIDENT :—" Perhaps, you are supporting the argument that zamindars need not be paid."

* SRI M. NARAYANA MENON :—" Sir, I am considering the other matter. Of course, zamindars must be paid some compensation. What compensation should be paid. I am not prepared to say at present. That is another matter. Compensation should be paid by the Government because it was the Government who negligently allowed the zamindars to consolidate such rights."

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MR. PRESIDENT :—“ Let the hon. Member close his speech in a few minutes.”

* SRI M. NARAYANA MENON :—“ It is due to the negligence of the Government that such right was vested in the zamindar and the Government must pay for it. Therefore Government must pay the compensation and not the ryots. For this reason, I oppose the amendment.”

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p.m.

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—“ Sir, I support this amendment for this reason, that it will be wrong on the part of Government to pay this money from public funds. Because as has been pointed out, the peshkash is 47½ lakhs of rupees, and the Government feel they will have to get 17 crores to give full compensation. The balance they have to borrow, and the interest will be something like 85 lakhs.”

MR. PRESIDENT :—“ At what rate? ”

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—“ At six per cent.”

MR. PRESIDENT :—“ At six per cent for Government? ”

* ABDUL LATIF FAROOKHI SAHIB BAHADUR :—“ Sir, even if it be at three per cent it will come to fifty lakhs, and of this, fifteen lakhs will go for collection charges, and so the balance available will not be sufficient, and so the Government will have to make it up from public revenue. Therefore I say Government will not be justified in paying this money from public funds to people who have been rack-renting ryots all these years. Mr. Narayana Menon said, Government had been allowing a wrong to be done all these years. Sir, is it as a fine for that, that it should be imposed on us? Therefore I say this amount cannot be paid from Government revenues.”

THE HON. SRI KALA VENKATA RAO :—“ Sir, there is no need for such a lengthy discussion on the small amendment except for the fact that the Leader of the Opposition wanted to correlate it to the major idea in his mind that the beneficiary out of this Bill, namely, the occupancy ryot must pay something, if not the whole compensation. Otherwise the Government will be a loser. Sir, I have explained twice over and showed clearly that Government are never the loser out of this transaction. To-day I can definitely assert and I say that out of the transaction Government are going to gain and not at all lose. There may be transitory loss in the first three years; but from the fourth year, when the entire amount is amortised, the amount will not be much and the entire transaction will be a success ultimately, even if it were by borrowing and paying in cash. But if it were otherwise it will be much more profitable.

“ Another thing I want to say is, I am not at all satisfied why these gentlemen who have argued so much for the cultivating

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tenant should mulct from him all this compensation amount. What does the occupancy ryot gain? His rights have not been increased; only we have reduced his rent."

SRI S. B. ADITYAN:—"Not under this Bill?"

THE HON. SRI KALA VENKATA RAO:—"Both are correlated Bills. In the other Bill the reduction is by averages; while here, it is real reduction; and for this benefit you want him to pay the compensation amount! Even if it be one year's rental from all people who own more than fifty acres, the aggregate amount will not come to fifteen lakhs. But whatever we collect in the form of land revenue from the estates in future will all be additional income to Government and that additional income will be utilized for the payment of compensation. Finally, Sir, I want to say one thing. I have a shrewd suspicion that Dr. John is saying all this so that I may disclose what I have in my mind so that he might put them before the High Court (Laughter). I have given only some statistics, and I stick to the position I have taken, that this compensation affair will not be a loss, but it will eventually be a gain to all parties concerned. I request Dr. V. K. John to withdraw his amendment."

DR. V. K. JOHN:—"May I submit I have no such idea as was adverted to by the Hon. Revenue Minister."

The amendment was put to vote and lost.

MR. PRESIDENT:—"I have before me a Government motion to move that tomorrow non-official business may be suspended, and I am told the Leader of the Opposition has agreed to it."

* DR. V. K. JOHN:—"Only subject to giving us another day, some near day, because we do not want to stand in the way of finishing this Bill, which is now part-heard, as we say, in Court; and the other Bills may be taken up later on, for we had never had a non-official day for a very long time."

THE HON. DR. T. S. S. RAJAN:—"It is difficult to say when this Bill will be over in this House."

MR. PRESIDENT:—"Tomorrow is 24th instant and the next non-official day will be the 1st of December, and it is not known whether we will be sitting till then. If we finish earlier there might be given one non-official day."

THE HON. DR. T. S. S. RAJAN:—"They want one day to discuss food policy, one day to discuss textile policy; if they are willing to forego all that, non-official business might be taken up immediately after this Bill is over."

* DR. V. K. JOHN:—"You remember, Sir, Mr. President, I wrote to you some time back that a day should be allotted for

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food and one day for textile policy; we are very keen on having a discussion on them and also on having a non-official business day."

THE HON. DR. T. S. S. RAJAN :—" We have also some Government Bills pending."

MR. PRESIDENT :—" It is a very long time since there was a non-official business day. Suppose this Bill is finished in three or four days, then some day this week may be allotted for non-official business."

THE HON. DR. T. S. S. RAJAN :—" Provided other Bills also are finished. It all depends on when this Bill is finished."

MR. PRESIDENT :—" We shall see."

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—" Unless we get an assurance from the Government."

MR. PRESIDENT :—" What are you going to do?" (Laughter.)

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—" We cannot do anything; but we shall record our protest."

MR. PRESIDENT :—" But I am trying to help you."

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—" Certainly, Sir."

Clause 3.

Sub-clause (g).

MR. PRESIDENT :—" Mr. B. Narayanaswami Nayudu will move his amendment."

SRI B. NARAYANASWAMI NAYUDU :—" Sir, this sub-clause (g) is a very significant clause. This is a logical sequence to clause 3 (c), under which all rights and interests created in or over the estate before the notified date by the principal or any other landholder, shall as against the Government cease and determine. The natural sequence to this is that whatever right you may have against the previous landholder or inamdar or anybody, you shall not have and you shall have only so much as are given to you under this Act. Mr. Natarajan was perfectly right when he said, there must be somebody who is the owner. Therefore it is not chimerical as said by the Hon. Revenue Minister; there is really a gap to be filled in. It is not the pattadar who is made the owner of the soil; for this measure says what rights and privileges the ryot had against the zamindar previously the ryot would not have against Government. May I ask respectfully

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the Hon. Minister, is this not, what is called, a serious encroachment upon the rights of the ryots? Therefore I say my amendment should be accepted, which is as follows :—

Substitute the following for the existing sub-clause (g) :—

“(g) ryots in the estate and persons holding under them shall, as against the Government, be entitled to all rights, and privileges which may have accrued to them before the notified date by grant, prescription, custom, or usage of the village.”

MR. PRESIDENT :—“ Will the hon. Member give some instances where his amendment will be better for ryots? ”

SRI B. NARAYANASWAMI NAYUDU :—“ In the Prakasam Committee's report this customary right of the ryot has been fought tooth and nail, and the whole controversy was with regard to customary rights of the villagers. The Hon. Mr. President himself may know of cases in Karvetinagar in Nellore, in Nuzvid estate where grazing and pasture rights of ryots have been recognized as customary rights. Now in the whole of this Bill, except under clause II, which confers on every ryot a patta, there is no other clause which confers any benefit on the ryot. I challenge the Hon. Revenue Minister to show any other benefit to the ryot in this Bill. The whole controversy in the Prakasam Committee's report is as to who is the owner of the soil, the pattadar or the Government. You have chosen the latter as the owner of the soil, and in choosing that, you have sacrificed the customary rights of the villagers and ryots.

“ I ask why the existing rights should be taken away? Is this not retrograde? The zamindars have granted certain rights like forest rights, mining rights, sand rights, etc. In your anxiety to bring the estate ryots to the level of the ryotwari pattadars, you are doing them a great injustice. There is no question of compensation so far as the ryot is concerned. His rights are being taken away and still there is no compensation. Cannot the Government tolerate at least the existing customary rights, rights which have been conceded to the ryots in the draft Bill of Mr. Prakasam's Ministry? I want to know whether the heart of the Government is on the side of the ryots, on the side of the zamindars or on the side of their own party.”

* DR. V. K. JOHN :—“ Sir, I second the amendment. In doing so, I want to draw your attention and the attention of the hon. Members of this House to the fact that this clause deals not only with the ryots in estates but also with persons holding under them. Who are the persons holding under them? For the purpose of convenience, I shall call them sub-tenants. They have no occupancy right under the Estates Land Act. The ryots alone have that right. Item (g) of clause 3 says that the sub-tenants shall be entitled only to such rights and privileges as are recognized or conferred on them by or under this Act. But nowhere in the Act is any right or privilege conferred on them.

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Then, why this language? What bad draftsmanship! What a meaningless clause! A person holding under a ryot, a sub-tenant, loses all rights which he enjoyed prior to the notified date. He is entitled only to the rights and privileges conferred under this Act. If a sub-tenant has executed a lease deed in favour of the land holder for thirty years, this Bill takes away his right to the leased property. (The Hon. Sri Kala Venkata Rao :—“How can it be?”). The Bill says that any rights and privileges, other than those conferred by or under this Act, which may have accrued to the ryots before the notified date shall cease and determine, and shall not be enforceable against the Government or the landholder.”

MR. PRESIDENT :—“The clause refers to rights accruing to the persons holding under the ryots against the Government and against the landholder and not to rights between the ryots *inter se*.”

* DR. V. K. JOHN :—“Let us be assured that it is so. The sub-tenants are there with no occupancy right and you are not conferring any right or privilege on them under this Act. They are outside the purview of this legislation. Therefore why do you touch them at all and take away their existing rights and privileges against the landholders?”

MR. PRESIDENT :—“Suppose the ryots to-day transfer all their rights to the sub-tenants and go away. The Government cannot touch them.”

* DR. V. K. JOHN :—“Whether such transfer is *bona fide* or not is for a court of law to decide.

“Then the clause refers to rights and privileges accrued against the principal or any other landholder . . . Who the principal landholder is, is defined in clause 2. The principal landholder means the person who held the estate immediately before the notified date. Who could the ‘any other landholder’ be? The term is not defined. It may include the other members of a joint Hindu family. When you are conferring or taking away rights, it is not desirable to leave the expressions vague and undefined.

“Therefore I submit that not only this clause but many other portions of this Act are not clearly worded. Perhaps the draftsman drafted the Bill when he was half drunk before the Prohibition Act came into force.

“Any assurance from the Hon. Revenue Minister that this Act will not touch the rights of the sub-tenants will be of no consequence, because the statute will prevail over the assurances given by Hon. Ministers on the floor of the Legislature.”

THE HON. SRI KALA VENKATA RAO :—“There is some point in what Mr. Narayanasami Nayudu has said though there is not much point in what Dr. John has said. Dr. John referred to

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the draftsman and the pre-prohibition days. For people to be off the mark, a Prohibition Act is not required. People can be off the mark even when they are sobre."

MR. PRESIDENT:—"You please don't be off the mark."

THE HON. SRI KALA VENKATA RAO:—"Mr. Narayanaswami Nayudu's point is a simple one. There are certain undefined rights enjoyed by tenants in zamindari areas. Are you not obliterating them by this Act? I know there are such rights; I do not deny. We are aiming at a uniform land tenure throughout the province. When we do not want to have two sets of landholders, we cannot have two sets of rights. Therefore we have to take away those rights. What all the clause says is that the existing rights shall be recognized to the extent that this Act permits. The same rights do not exist everywhere. These are unwritten rights, rights which are not on record, and so anybody can be going before a court of law. The pasture fees in the forests used to be four annas. To-day have not the Government reduced them by 50 per cent? These rights will have to be considered along with the rights of the ryots in all parts of the province and the whole question dealt with in a major reform.

"My friend Mr. Narayanasami Nayudu cited a quotation beginning with the words 'Subject to the Forest Act.' The crux of the whole thing is in that one phrase. What does the Forest Act say? It does not allow anybody to graze his cattle or cut trees without permit or licence.

"Sir, we want to help ryots. But we want to help all ryots instead of a particular section of ryots. If grazing is allowed in forest areas, do you think that, when the Government take over the forests, they will sell away the pasture lands to Mr. Gopalakrishnayya to add to the 2,000 or 3,000 acres that he already owns. Look at the direction in which things are moving and in which they will have to move. If a customary right is enjoyed by ryots throughout the presidency, it will be there. If people want to graze their cattle in a forest I would allow them provided there is no difficulty under the Forest Act. No injury is intended against any ryot. I don't think anybody is injured by the insertion of this clause."

MR. PRESIDENT:—"Do not the restrictions apply only when the Forest Act is applied? If the Act is not applied, I don't think there is any difficulty in grazing cattle, etc."

THE HON. SRI KALA VENKATA RAO:—"We have got a number of unreserved forests, and the cattle can graze there. (Interruption by Sri N. Ranga Reddi.) The whole difficulty is this. The extent of forests in this presidency is insufficient to meet our needs. Unless there are forests, we cannot have proper rain and flow of

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water. Besides, they are of use in preventing soil erosion. Therefore there must be some control to preserve the forests against destruction. The Forest Act only imposes the control that is needed and does not aim at destroying the interests of the common man.

"I request the hon. mover to withdraw his amendment."

MR. PRESIDENT :—"What did Mr. Ranga Reddi say in his interruption?"

SRI N. RANGA REDDI :—"Even in ryotwari areas, owners of cattle will have to obtain permits for grazing their cattle both in reserved and unreserved forests, as in the case of panchayat forests."

MR. PRESIDENT :—"That is different."

"The question is—For the existing sub-clause 3 (g), substitute the following :—

"(g) ryots in the estate and persons holding under them shall, as against the Government, be entitled to all rights and privileges which may have accrued to them before the notified date by grant, prescription, custom or usage of the village."

The amendment was lost.

Clause 3 was put and carried.

Clause 4.

* SRI R. SURYANARAYANA RAO :—"Mr. President, Sir, I move that the following be substituted for clauses 4, 5, 6 and 7 :—

4. (a) As soon as may be after the passing of this Act, the Government shall make arrangements to carry out survey and settlement operations in estates where such operations are necessary and introduce ryotwari settlement therein. Except in regard to those matters in respect of which specific provision has been made in this Act for appeals to the Tribunals, the Board of Revenue shall have power to control and regulate all survey and settlement operations.

(b) With effect on and from the notified date, the Board of Revenue shall also be competent to make such arrangements as are necessary for the efficient management of estates subject to such instructions as may be issued by the Provincial Government from time to time consistent with the provisions of this Act."

"Sir, mine is a simple amendment. This one clause seeks to take the place of four clauses in the Bill. For achieving the very purpose which the Hon. Minister wants to achieve by four clauses, I was prompted to give notice of this amendment. In clause 6 a specific duty is laid upon the Government to appoint one or more persons to manage the estate. Sir, when a reform of this kind is attempted, I do not know whether it is right or in order for the

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Government to bind themselves down to take particular steps in their anxiety to give effect to their reform as early as possible. My submission is that the Government should lay down what is to be done in the Act and it is for the executive authority under the Government to carry out the intentions of the Act. My amendment only seeks to give effect to the intentions of the Government contained in these four clauses, in which the Board of Revenue is recognized to have supervisory powers over the Settlement Officer, the Director of Settlement and the managers, and leaves the whole thing to be done by the Board of Revenue to make necessary arrangements for survey and settlement operations, as it is carrying out such operations in the ryotwari areas.

" My amendment in clause (b) also gives power to the Board of Revenue to make such arrangements as are necessary for the efficient management of the estates, subject to such instructions as may be issued by the Provincial Government. I find from a memorandum submitted by the zamindars that there are some zamins with a few acres of lands only. Is it necessary for the Government to appoint one manager for those few acres? Yesterday the Hon. Minister for Revenue in the course of his remarks told us that he has an idea of forming new taluks, and firkas. For example he took the case of Pithapuram and Tuni, to form a revenue taluk. When an ordinary revenue reform is sought to be introduced, why should the Government bind themselves, as stated in clause 6, that they shall appoint one or more managers. If one Settlement Officer is enough in a particular estate in order to carry out survey and settlement operations as quickly as possible, why bind yourselves by the use of the term 'shall' to do certain things. Other things which are required to be carried out under this reform can be done under the direction of the Government by the Board of Revenue which is the proper authority to carry out those objects. Yesterday the Hon. Minister for Revenue twitted me by saying that I am one of those who has much faith in the Board of Revenue. I am not ashamed to confess it, Sir. Even in the minute of dissent which I had written to the Retrenchment and Reorganization Committee Report, I have stated so, because I have studied the question from my point of view and I have felt that if a body like the Board of Revenue is made responsible for all these things, this reform and similar reforms can be more easily and more quickly carried out than by tying the Government to do certain things under particular provision of the statutes. I do not know how the Select Committee thought fit to introduce these four clauses instead of the one which I have suggested in my amendment.

" Sir, my amendment as I have already stated, seeks to achieve the purpose of the Government without tying the Government to follow a certain course of action, and also without the appointment of managers. Some of these estates may be brought under the jurisdiction of the existing taluks or the existing districts either by enlarging their jurisdiction or by creating more taluks or districts, if some of the estates are big enough to be clubbed together. So, I

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submit that these reforms can be carried out much more economically and much more efficiently by the existing district revenue staff than by appointing a number of managers which would involve considerable additional expenditure."

MR. PRESIDENT :—" As regards managers, I do not think it means that every estate must have a separate manager."

* SRI R. SURYANARAYANA RAO :—" It may not be so, Sir, because I think the Government can appoint one manager for every estate or one manager to be in charge of two or three estates, or sometimes two managers may be necessary for one estate. But any how, Sir, these are matters of detail which the Board of Revenue may have to work out. With these words, Sir, I move my amendment."

* DR. V. K. JOHN :—" Sir, one word I want to say in seconding this amendment. This is another clear instance of bad drafting. I remember, Sir, that Dr. Subbarayan who was the Chairman of the Joint Select Committee, while speaking in the lower House said that while the officers of the department have been of great assistance in drafting the Bill, they were unable to follow the decisions arrived at by the members of the Joint Select Committee and therefore he admitted that the drafting was not perfect."

MR. PRESIDENT :—" I do not think that the hon. member is in order in referring to some of the statements made by a member of the other House who is not here and it is better that he makes no reference to that at all."

* DR. V. K. JOHN :—" Sir, he mentioned it on the floor of the Legislative Assembly in his speech, which I think I am entitled to refer to. Of course, he complemented the departmental officers, but he said that there were imperfections in the draft of the Bill which were due to the decisions not being clearly understood."

MR. PRESIDENT :—" The hon. Member better need not make any reference to it, but may confine himself to the clause under discussion."

DR. V. K. JOHN :—" Sir, instead of using the word ' may ' which is the proper word, the clause says that the Government ' shall ' appoint one or more persons to manage the estate, because the draftsman of the Bill does not make a distinction between power given to the Government and the duty cast upon them by the Legislature. Now a duty is cast upon the Government by the use of the word ' shall '. Power is conferred by the use of the word ' may ' but courts have held that when a power is conferred and that power is coupled with a duty the power shall be exercised. Why should you use the word ' shall ' and say that the Government shall appoint one or more persons to manage the estate. The Government may appoint or may not appoint these managers, because it is a matter of discretion. Therefore it is

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meaningless in the context and that that is not the correct way of drafting a Bill, which has to pass through a responsible body of persons in the Legislature who have to pass it into a statute.

“ Then Sir, the clause says : ‘ the Government shall appoint one or more persons to manage the estate ’. It is not said, ‘ estate or estates ’. Estate here is used in the singular and singular does not always mean plural. This is also a case of bad drafting. Instances like this can be multiplied. I therefore submit that it is better that the Government gladly accept the amendment brought forward by my hon. Friend Mr. Suryanarayana Rao, unless they want to stand on prestige. If they stand on prestige, no amendment could go through. I ask the House, is it fair for the House to reject an amendment which is purely intended to clarify the position and substitute an admittedly better wording to a clause which is ill-drafted.”

THE HON. SRI KALA VENKATA RAO :—“ Sir, I do not think that by accepting this amendment, matters will be improved in any way. If really it could have contributed anything towards making the Bill better, I would certainly have accepted it, Sir, without standing on any prestige. We do not wish to stand on any false prestige. We are prepared to accept anything which is really good and which will make the Bill better. But I only submit that this amendment does not improve the Bill in any way.

“ Then, Sir, about the question of managers during the interim period, if we want to bring this Act into operation suddenly in a particular estate or in a particular district, we will not be able to do all the things that are necessary by means of notification or by changing the boundaries of taluks by means of the existing law. We have to do many things, if we want to take on one area in the zamindari to a neighbouring taluk. Then again, in regard to the management of the estates, we cannot simply draw a man from the streets and place him in charge of the estates. We will have to employ those people who are already looking after these estates, because it is they who are in the know of things and who can be expected to do the duties properly. But we will have to create a separate category for the managers and carry on the administration. I therefore, submit, Sir, that these managers are necessary and we cannot dispense with them.

“ About bad drafting which my hon. Friend Dr. John has said so much, I may submit with pride that this Bill has been shown to very important persons who can speak authoritatively on these subjects, and I am glad to say that they have considered this as a best drafted piece of Estates legislation in the whole of India. I say that with pride, though the credit does not go to me—it goes to the departmental officers who have laboured so hard at it—and it will be very difficult to go into the question of examining whether the term ‘ may ’ or ‘ shall ’ is more accurate in the context, because I do not have legal training myself, but I have received special commendation on this Bill from friends in

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Northern India, saying that this is a well drafted legislation in regard to the abolition of estates. Therefore let us not discuss about such things. Let the drafting be left to the Legal Department who are best fitted to do that job. If any difficulty arises, it is for the courts to judge and I am sure no difficulty would arise. I would therefore request my hon. Friend Mr. Suryanarayana Rao to withdraw his amendment."

MR. PRESIDENT :—" The question is—

' 4 (a) As soon as may be after the passing of this Act, the Government shall make arrangements to carry out survey and settlement operations in estates where such operations are necessary and introduce ryotwari settlement therein. Except in regard to those matters in respect of which specific provision has been made in this Act for appeals to the Tribunals, the Board of Revenue shall have power to control and regulate all survey and settlement operations.

' (b) With effect on and from the notified date, the Board of Revenue shall also be competent to make such arrangements as are necessary, for the efficient management of estates subject to such instructions as may be issued by the Provincial Government from time to time consistent with the provisions of this Act '."

The amendment was lost.

Clause 4 was put and carried.

Clause 5.

* DR. V. K. JOHN :—" Mr. President, Sir, I might make one comment here, because the Hon. Minister has just now said that this is a very well drafted measure. Now take for instance, sub-clause (2) of clause 5. The wording used here is, ' Every Settlement Officer shall be subordinate to the Director and shall be guided by such lawful instructions as may issue from time to time.' The words ' lawful instructions ' are most inappropriate in this context and are not used in the proper sense. The draftsman of this says that the Settlement Officer shall be guided by lawful instructions, issued by the Director. Who is to decide whether the instructions issued by the Director are lawful or not? It is not for him to decide whether they are lawful or not. Can the Settlement Officer, who is a subordinate officer to the Director say that the instructions issued by his superior officer are unlawful? Is it proper to put it in a Bill that the Director should issue only lawful instructions, as if there is an apprehension that he will issue unlawful instructions? Does it not cast a reflection on the Director? I am sure, Sir, the Hon. Minister will realise the impropriety of the language used in this connexion."

4-15 p.m. MR. PRESIDENT :—" Suppose the Director says that he confers a benefit upon somebody, say that he is granting lands for Rs. 10 or Rs. 12? "

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* DR. V. K. JOHN :—“ Then the law says that it could not be done. It is not an instruction. Anyhow the word ‘lawful’ need not be used. The idea is to make the Settlement Officer subordinate to the Director and he should carry out the instructions of the Director. Then why should we say ‘lawful’ instruction, as if he can expect some unlawful instruction? ”

THE HON. SRI KALA VENKATA RAO :—“ I can say this much, Sir, that I do not like to make any invidious distinction. This wording ‘lawful’ was adopted on the advice of another eminent lawyer Mr. Bhashyam in the Lower House. I do not like to draw any distinction between Dr. John and Mr. Bhashyam, Sir. Both are eminent lawyers. That lawyer felt that the wording ‘lawful’ should be there. This lawyer thinks that it is not necessary. It is very difficult for me to decide. Therefore, Sir, let us not trouble ourselves over these things and leave them to the Legal Department.”

MR. PRESIDENT :—“ The question is that clause 5 do stand and form part of the Bill.”

The motion was carried.

Clause 6.

Sub-clause (2).

SRI B. NARAYANASWAMI NAYUDU :—“ I have given notice of an amendment to sub-clause (2) of clause 6, Sir, which reads :

‘ Add the following to this sub-clause :—

“ A copy of all such instructions shall be communicated to the landholder or landholders concerned as and when they are communicated to the Manager and a copy shall also be notified in the village or villages concerned by tom-tom and passing it thereon in the village chavadi ”.’

I wish to say, Sir, that the publication of the instruction should not be done secretly. This can be done even without amending the clause.”

THE HON. SRI KALA VENKATA RAO :—“ Sir, we will consider this when we frame the rules. Except for secret or confidential correspondence the rest will be given wide publicity as suggested.”

The amendment was not pressed.

MR. PRESIDENT :—“ The question is that clause 6 do stand and form part of the Bill.”

The motion was carried.

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Clause 7.

MR. PRESIDENT :—“ The question is that clause 7 do stand and form part of the Bill.”

The motion was carried.

Clause 8.

SRI B. NARAYANASWAMI NAYUDU :—“ Sir, I move that in clause 8, in sub-clause (2), (i) omit the words ‘ or an officer eligible to be appointed as a District Judge ’ and ‘ or an officer eligible to be appointed as a Subordinate Judge ’ and (ii) add the word ‘ permanent ’ before the words ‘ District Judge ’ and ‘ Subordinate Judge ’.

“ I do not know, Sir, who is an officer eligible to be appointed as a District Judge. For instance, a private vakil can be appointed. I say, Sir, that the clauses ‘ eligible to be appointed as a District Judge ’, ‘ eligible to be appointed as a Subordinate Judge ’ and ‘ eligible to be appointed as a Revenue Divisional Officer ’ should go. There must be a District Judge, a Subordinate Judge and a Revenue Divisional Officer.”

MR. PRESIDENT :—“ Somehow or other the hon. Member has omitted the Revenue Divisional Officer from his amendment.”

SRI B. NARAYANASWAMI NAYUDU :—“ If my amendment is accepted at least so far as the District Judge and the Subordinate Judge are concerned, I shall be glad, Sir.”

MR. PRESIDENT :—“ I wanted to know whether the hon. Member has any bias in favour of the Revenue Divisional Officer.”

SRI B. NARAYANASWAMI NAYUDU :—“ You know, Sir, he is a chip of the old block. (Laughter.) It does not matter, Sir.

“ Now there is another thing. I have moved that the word ‘ permanent ’ should be added before the words ‘ District Judge ’ and ‘ Subordinate Judge ’. You cannot have persons eligible to be appointed because they will be of one race. Temporary judges will be subject to influences. Therefore a permanent District Judge and a permanent Subordinate Judge who have a title to office and for promotions will not be affected. Therefore it is very essential that it should consist only of permanent District Judges and permanent Subordinate Judges.”

The amendment was seconded by Sri Medai Dalavoi Kumaraswami Mudaliyar.

THE HON. SRI KALA VENKATA RAO :—“ The point is very simple, Sir, as I have already explained. When we use the words ‘ an officer eligible to be appointed ’ the purpose is this. The procedure followed by the Government with reference to the recruitment of all the three officers, the District Judge, the Subordinate Judge and the Deputy Collector is this. Every year a list is prepared of all the eligible people and this list in all the cases

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will come through only the Public Services Commission. That list is kept ready so that whenever a vacancy occurs the person can be appointed from out of the list. It is not as if we go and select somebody. Because the Hon. Member raised the question of race, Sir, I must say there is absolutely no question of race. For 1948-49 there is already a list from which the Government will appoint."

MR. PRESIDENT :—" Am I to understand that you have a list of persons eligible to be appointed as District Judges and Subordinate Judges? "

THE HON. SRI KALA VENKATA RAO :—" Yes, Sir. The recruitment will only be from out of the service and there is no question of recruitment from outside. The policy is only to confine the appointments to officials and not to non-officials. Therefore if what Mr. Naidu wants is that only senior people should be appointed, as I said yesterday, we will make the selection from out of the senior people. I would, therefore, request my hon. Friend. . ."

SRI B. NARAYANASWAMI NAYUDU :—" Why not they have permanent District Judges and Subordinate Judges? "

THE HON. SRI KALA VENKATA RAO :—" Sir, the difficulty is this. In this Presidency there are about 24 District Judges of whom hardly 8 or 10 will be permanent. As regards the question of seniority there are certain rules. These are all technical matters, Sir, which I do not want to go into. I can assure my hon. Friend that people who are in the know of the work, and people of honesty, and people who are above suspicion will alone be appointed."

DR. SIR A. LAKSHMANASWAMI MUDALIYAR :—" Yesterday, Sir, while the Hon. Minister replied to a point raised by me in my speech assured me that permanent people in the judiciary will be appointed. Will he at least see to that? "

THE HON. SRI KALA VENKATA RAO :—" Before a District Judge is appointed, Sir, he would certainly have been a permanent man in the judiciary. At that time he must almost have reached the age of 52 or 53. We will have only permanent people, Sir. We are not going to recruit an acting District Munsif and put him here. That is not the method in which this will be done."

SRI B. NARAYANASWAMI NAYUDU :—" But the power is there."

THE HON. SRI KALA VENKATA RAO :—" You know the difficulty, Sir. If by a mistake somebody is appointed, nobody would be able to question. It is only for such escapes that certain provisions are made. You should not think that the whole thing is going to be for patronizing people, etc."

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DR. SIR A. LAKSHMANASWAMI MUDALIYAR :—“ Sir, at least if the Hon. the Revenue Minister will assure us that he will continue to be the Revenue Minister till all these questions are settled in the future, we have no objection. Another Revenue Minister might take advantage of the provisions and utilise them as he deems fit. On the floor of this House, we want a categorical assurance from the Hon. Minister so that if such a step is taken we can quote chapter and verse as to what the interpretation was at least on the floor of the House.”

MR. PRESIDENT :—“ Perhaps I may also mention what might be the difficulty the Government will experience. Now there are only a few permanent District Judges. And about 4,000 estates are going to be taken. For these a number of people will be required for constituting the tribunals. If it is said that only permanent District Judges should be appointed, the position will be a difficult one.”

THE HON. SRI KALA VENKATA RAO :—“ We want to have honest, efficient and senior men to do the work. Sir, Dr. Lakshmanaswami Mudaliar wanted an assurance that I should continue as the Revenue Minister. No Minister under a democratic system can give that assurance, Sir. Nonetheless, Sir, I would like to give him this assurance that I shall try to continue in office as long as it is necessary to put this Bill into force, because it will bring benefit to all.”

DR. V. K. JOHN :—“ Sir, the assurance given by the present Minister binds not only himself but his successors in office also.”

MR. PRESIDENT :—“ You want an elucidation on the point?”

SRI B. NARAYANASWAMI NAYUDU :—“ I do not press my amendment, Sir.”

The amendment was by leave withdrawn.

MR. PRESIDENT :—“ The question is that clause 8 do stand and form part of the Bill.”

The motion was carried.

New clause 8-A.

* DR. V. K. JOHN :—“ I move, Sir, that after clause 8, the following shall be added as new clause 8-A :—

‘8-A. All appointments for the posts of Directors, Settlement Officers, Managers of estates and Members of Tribunals shall be made from a list of persons selected for appointment by the Public Service Commission.’

In moving this amendment, Sir, I am only trying to assist the Government to keep their reputation. A democratic Government loses much of its reputation and becomes unpopular because it exercises patronage. If only this patronage is not exercised by

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Members of the Government and these appointments are left to be made by the Public Service Commission, then, Sir, they would keep their reputation and their popularity. It is only for that purpose, Sir, that I move this amendment.

“ Sir, thousands of managers and Members of Tribunals have to be appointed and they are given very great rights and powers under this Act. People would be very apprehensive if proper persons are not selected. Therefore to clear that apprehension I suggest that the Public Service Commission be requested to select the persons from whom the Government might make the appointments. If at least an assurance is given to that effect, I shall withdraw my amendment, Sir.”

THE HON. SRI KALA VENKATA RAO :—“ Even that assurance is not needed, Sir, because practically, recruitment to all the posts the hon. the Leader of the Opposition mentioned are made by the Public Service Commission in the beginning except in the case of the Managers. As regards the Managers, Sir, I have already given a hint. It is a temporary business. We want to assimilate the present officers in the Estates. If a dewan in Venkatagiri is not satisfactory we will send him to Pitapur. In the majority of cases, Sir, these people will be qualified men with much revenue experience, and most of them would have put in a service of 20 years or so. We cannot throw them into the streets. And they cannot be recruited to the service through the Public Service Commission under the present rules. I can assure my hon. Friend, Sir, that everything will be done in conformity with the fundamental rules on which recruitment to public services is based.”

The amendment was not pressed.

Clause 9.

SRI B. NARAYANASWAMI NAYUDU :—“ Sir, I move amendments numbers 19, 20, 21, 22 and 28 together because they refer to the same matter. They are as follows :—

- ‘ 19. For the words “ and give his decision in writing,” the words “ and submit all such records and evidence together with his recommendation and opinion to the Tribunal,” be substituted.
20. Sub-clause (4) (a) be deleted.
21. In sub-clause (4) (b), for the words “ where any such appeal is preferred,” the words “ on receipt of such records and recommendation and opinion of the Settlement Officer,” be substituted.
22. For sub-clause (4) (c), the following clause be substituted :—

“(c) The decision of the Tribunal may be appealed against within two months of the decision of the Tribunal and the appeal shall lie to the High Court and the judgment of the High Court as exercised in its appellate jurisdiction shall be final.”

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28. *The following be added at the end of sub-clause (7) :—*

“Where the High Court or Privy Council have already decided that an inam village is or is not an inam estate the Settlement Officer or the Tribunal shall not proceed to determine afresh whether the inam village is or is not an inam estate.”

Sir, the Bill says even though it was decided already by the High Court or by the Privy Council that such and such an estate is an inam or not an inam, the matter should again go for adjudication. I do not know what is the purpose of this kind of provision. Anyhow it is there. It says: ‘As soon as may be after the passing of this Act, the Settlement Officer may *suo motu* and shall, on application, inquire and determine whether any inam village in his jurisdiction is an inam estate or not.’ Sir, if the parties had already gone into litigation over this matter and it has been decided, why should it be again decided? I cannot understand the purpose of this and therefore, I have given these amendments.”

MR. PRESIDENT :—“Is the hon. Member dealing with amendment 19? Does he think that such an instruction is necessary that the Settlement Officer should submit all such records and evidence together with his recommendation and opinion to the Tribunal? I suppose if there is an appeal, all these things will be called for.”

SRI B. NARAYANASWAMI NAYUDU :—“He shall only submit his records but he shall not give a decision. The object of my giving these amendments is this. Now, the Settlement Officer gives a decision. There should be an appeal to the Tribunal consisting of a District Judge, a Subordinate Judge and a Revenue Divisional Officer. The Settlement Officer will get all the records for the preliminary enquiry, will gather up all materials and submit them to the Tribunal. The Tribunal decides. There shall be an appeal to the High Court. That is what is contained in my amendment No. 22.

“Then, Sir, amendment 28 says that where the High Court or Privy Council have already decided that an inam village is or is not an inam estate, the Settlement Officer or the Tribunal shall not proceed to determine afresh whether the inam village is or is not an inam estate. I ask, is it the policy of this Government to re-open all the questions that have been made clear with regard to the 1908 inams or 1936 inams. The moment it has been decided by the Privy Council that a particular inam village is or is not an inam estate, the matter is clear and therefore there is no necessity to redetermine whether it is an inam estate or not an inam estate. I know such a matter was decided in 41 Madras and it was also decided in another case in 43 Madras and there are so many rules laying down that these estates are inam villages under the Estates Land Act and clause (d) applies. Therefore, I submit that where the High Court or the Privy Council has

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already decided the matter, one need not go over it again. There is no use saying that all these inams have gone through the fire and have been subjected to a lot of agitation and litigation with regard to the grant of melwaram rights or kudiwaram rights or both the rights. But, Sir, where there is a decision of the High Court or Privy Council, why should those decisions be given a go-bye and the whole thing remodelled again? Therefore I say those inams on which decisions have already been given, should be accepted as such, and only the other estates on which no decisions have been given should be referred to the Tribunal. Regarding these other estates, only the Tribunal and the High Court should determine its nature and not the Tribunal and the Settlement Officer. (Interruption.) I submit it is not at all revolutionary."

MR. PRESIDENT :—" Does the hon. Member think that the judgment of a competent Court will not be proper evidence? "

SRI B. NARAYANASWAMI NAYUDU :—" It is not a question of evidence. But, why should the parties fight out the matter again. Therefore, I say that the decisions of the High Court or the Privy Council have to be gone into before the Settlement Officer takes up the question."

THE HON. SRI KALA VENKATA RAO :—" The question is this. There is no difficulty in either the Settlement Officer or the Tribunal accepting the decision of the High Court or of the Privy Council. But, in the Select Committee, two difficulties were pointed out. One difficulty is that the point on which the appeal has been taken to the Privy Council or the High Court, might have been different from the point which may be raised now by one of the contestants. If there are two inamdars amongst five or ten who own that village, a certain point would have gone to the High Court but a third party may go to-day in respect of some other point. The other difficulty is this. Certain cases may not have gone so far as the High Court and there may still be conflicts regarding certain inams. Therefore, for these two reasons it is thought advisable that all inams should be considered. The object of the Bill is to avoid litigation and that is why the decisions of the Tribunal are made final, so that there will be no scope for further litigation. No one can say that if there is an authoritative ruling given by the High Court or the Privy Council, it will not be respected. A man like the Special Officer, if he tries to override it, then there is the District Judge and the Special Judge who will go into the matter. Therefore, there is no scope for litigation here."

SRI B. NARAYANASWAMI NAYUDU :—" Sir, what I say is that the Settlement Officer is not competent to rake up questions decided by the High Court or the Privy Council. Who can prevent him from doing so? If a village is held an inam, the ryots will go and say that it is not an inam but if it is held as an estate, then the proprietors will go and say that it is not an estate. Therefore, my amendments say that where it has been settled as

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an estate by the High Court or the Privy Council, then there is no use going to the Tribunal again, and only those cases, where it has not been decided by the High Court or the Privy Council that it is an inam or an estate, should go before the Settlement Officer and the Tribunal. Otherwise, it will lead to a lot of controversy and may lead necessarily to 3,600 applications with regard to the estates, either by the owners or by the melwaramdars or kudiwaramdars. I say with all respect to the members on the opposite side, that to rake up all these questions and make them go before the Tribunals is wrong."

THE HON. SRI KALA VENKATA RAO :—" It only goes before a Special Officer. Then, the District Judge is there, the Special Judge is there and the Revenue Divisional Officer is also there in the Tribunal."

SRI B. NARAYANASWAMI NAYUDU :—" They may all be there. But, what I say is, you must get at the highest court and only the High Court's decision should be binding. Do you want to give jurisdiction to reopen all the questions with regard to the 3,600 inam villages? Therefore, my point is those inams where the High Court decision or the Privy Council decision has been given, should be excepted and only the other inams should be examined by the Settlement Officer. I hope Government would accept this amendment, if they are not weighed by considerations of prestige."

SRI A. GOPALAKRISHNAYYA :—" I second the amendments."

THE HON. SRI KALA VENKATA RAO :—" As I said already, we want to eliminate the 1936 inams from the scope of the Bill. This clause 9 provides the most speedy manner in which it can be done. As far as I can see, the fears raised by Mr. Narayanaswami Nayudu are not well-founded. There will be no one on the Tribunal who will upset the decisions given by the High Court or the Privy Council. Therefore, I do not think there is any reason to accept any of the amendments."

MR. PRESIDENT :—" The question is that—

19. *For the words "and give his decision in writing," the words "and submit all such records and evidence together with his recommendation and opinion to the Tribunal," be substituted.*

20. *Sub-clause (4) (a) be deleted.*

21. *In sub-clause (4) (b), for the words "where any such appeal is preferred," the words "on receipt of such records and recommendation and opinion of the Settlement Officer," be substituted.*

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22. For sub-clause (4) (c), the following clause be substituted :—

“(c) The decision of the Tribunal may be appealed against within two months of the decision of the Tribunal and the appeal shall lie to the High Court and the judgment of the High Court as exercised in its appellate jurisdiction shall be final.”

28. The following be added at the end of sub-clause (7) :—

“Where the High Court or Privy Council have already decided that an inam village is or is not an inam estate the Settlement Officer or the Tribunal shall not proceed to determine afresh whether the inam village is or is not an inam estate.”

The amendment were declared lost.

(Sri B. Narayanaswami Nayudu demanded a poll.)

MR. PRESIDENT :—“Is the hon. Member serious about the division?”

SRI B. NARAYANASWAMI NAYUDU :—“Certainly.”

MR. PRESIDENT :—“You must look serious to me.”
(Laughter.)

SRI B. NARAYANASWAMI NAYUDU :—“I say it in all seriousness and I press for a division.”

A poll was taken and the House divided as follows :—

Ayes.

- | | |
|---------------------------------------|------------------------------------|
| 1 Dr. V. K. John. | 5 Sri A. Gopalakrishnayya. |
| 2 Abdul Latif Fazookhi Sahib. | 6 „ M. D. T. Kumaraswami Mudaliar. |
| 3 Dr. Sir A. Lakshmanaswami Mudaliar. | 7 „ R. Suryanarayana Rao. |
| 4 Sri B. Narayanaswami Naidu. | |

Noes.

- | | |
|----------------------------------|-------------------------------------|
| 1 The Hon. Dr. T. S. S. Rajan. | 13 Sri M. K. Sundarama Iyer. |
| 2 The Hon. Sri K. Madhava Menon. | 14 „ S. Jayaram Reddiar. |
| 3 The Hon. Dr. S. Gorubatham. | 15 „ K. Natarajan. |
| 4 Sri M. Narayana Menon. | 16 „ C. N. Muthuranga Mudaliar. |
| 5 „ B. Bhima Rao. | 17 Mr. A. S. T. F. Rodriguez. |
| 6 „ L. Subbarama Reddi. | 18 Sri B. Veeraswami. |
| 7 „ S. K. Satakopa Mudaliar. | 19 „ N. Ranga Reddi. |
| 8 „ P. Veerabhadraswami. | 20 „ D. Krishnamurthy. |
| 9 „ M. Narayana Rao. | 21 „ G. Venkata Reddi. |
| 10 „ N. Sankara Reddi. | 22 K. Muhomammad Rahimatullah Sahib |
| 11 „ N. Venkatchalamaji. | 23 Sri C. Veerabhadra Rao. |
| 12 „ A. Govindacharyulu. | |

Ayes 7 ; Noes 23 ; Neutral—Nil.

The amendments were lost.

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* SRI A. GOVINDACHARYULU :—“ Sir, with very great regret, I have to move this amendment to sub-clause (4) (c) of clause 9; the amendment runs as follows :—

‘ The decision of the Tribunal under this sub-section shall be subject to the result of the appeal which may be preferred against it, within three months thereof, to the High Court.’

“ I would only agree with what my hon. Friend Mr. Narayana-swami Nayudu stated prior to me. From the very beginning, I have been saying that this clause 9 was unnecessarily introduced in the Bill; and it had not even been discussed in the Select Committee. I am afraid this clause has been intentionally put into the Bill, with a view to cause some hardship to the 1936 inamdars, who have been exempted first, and later on roped in by some other means into this Bill. After the passing of the Estates Land Act of 1908, the case of nearly all the villages belonging to this category have gone to the Courts, either on the initiative of the inamdar, or on that of the ryot. And the District Court, or the High Court or the Privy Council has decided one way or the other. Roughly about 4,000 villages come under the 1936 inams category, and it has been settled that they are so. Even after the 1936 Act, cases went up to the Privy Council, in regard to still doubtful cases, and the Privy Council has decided one way or the other. So there is absolutely no need for any further enquiry. And further, is the Tribunal which is to be appointed by the Government, competent enough to go against the already arrived at decisions of these highest courts of law, on the question of classification of these inams? Should there not be a provision for an appeal to the High Court, against the decision of the Tribunal? The Hon. Revenue Minister gave many assurances that the decisions of the High Court and the Privy Council would form part of good defence. It is not a question of defence or offence here. Why should these inams be once again asked to go through a fresh litigation, and dragged into the mire, by this Tribunal? That is my point. The Hon. Minister is satisfied that it must be done. But for my part I do not see any reason for it.”

THE HON. SRI KALA VENKATA RAO :—“ The hon. Member is speaking upon a different amendment. The object of this amendment is only to provide for an appeal to the High Court. It does not at all refer to the judgments already delivered by the High Court.”

MR. PRESIDENT :—“ It is better that the hon. Member confines himself to his amendment.”

SRI A. GOVINDACHARYULU :—“ My only point is that an appeal to the High Court should be provided in this Bill. The Hon. Revenue Minister may say that the Tribunal also consists of officers drawn from the judicial service. But the very fact remains that a High Court Judge is quite different from any Subordinate Judge. He cannot be dismissed according to the whims and

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fancies of the Provincial Government; on the other hand, the District Judge, or the Subordinate Judge or any one who is likely to be appointed as a District Judge, is apt to favour the Provincial Government which is to constitute these Tribunals.

“Therefore, Sir, in fairness to the 1936 inamdars, in accordance with the compromise arrived at already, as regards the exemption of the 1936 inams from the scope of this Bill, I would only request the Hon. Minister to see that the High Court is made the appellate authority, since it is an independent body where justice could be secured, without giving any room for favour or patronage.”

* DR. V. K. JOHN :—“Sir, I strongly support this amendment in the hope that the mover will not withdraw it later, (Laughter) and will vote for it, if a division is called for. Sir, we have been fortunate to have a High Court here, which has always kept up a very high tradition, and reputation, for independence. Everybody has confidence in the High Court. Therefore, why should the Government fight shy of the High Court, and thus place all important matters relating to the property in the hands of the Tribunal? Why should not the litigant have the satisfaction that the High Court, an independent and learned body, heard his case and decided upon it? And even if it had been wrongly decided in his opinion, he could have the satisfaction that the High Court decided his case. But a person whose case is lost before a Tribunal simply because he was not permitted to go to a High Court, might feel that he never had the opportunity to reach a finality in a final Court of Appeal. Therefore, Sir, I would request Government to have confidence in the High Court, and see that provision is made for litigants to go to the High Court.”

THE HON. SRI KALA VENKATA RAO :—“One of the charges that have been levelled against me, by my hon. Friend is that this section 9 was not considered in the Select Committee. How could that have been done? At the time the Committee sat, we had included all the inams. The elimination of the 1936 inams from the purview of this legislation was the result of a subsequent action. As I have already pointed out, this section 9 is consequential to the decision to exempt 1936 inams from the scope of this Bill. Therefore how could this section have been considered in the Committee? I have explained the need for this clause, three or four items on the floor of this House, and I do not like to repeat the argument now.

“As regards the amendment that an appeal should be provided to the High Court, I would only say that there is no necessity at all for this amendment, since the very purpose of this Act, is to effect a major reform, and to restrict much litigation. The difficulty is if the Courts of Law are to decide the Settlement, etc., it will take years and years to reach a finality—as I have already stated, my hon. Friend Dr. John is still getting vakalaths in respect of the 1908 Estates Land Act, though nearly 40 years have elapsed since the passing of that Act. As we are bringing into

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effect an agrarian reform on well-defined principles, we cannot leave the matter to the Courts of Law, and thus give room for endless litigation.

"The classification of these inams into the 1908 and 1936 categories is quite easy. I do not think that in many cases, the question will come even before the Tribunal. As I have already pointed out, the High Court has already gone into a few cases, and certain principles have already been enunciated by these Courts, and these will be taken into consideration, when these things are gone into by persons who are competent to decide the issue."

"So, I would request my hon. Friend to withdraw the amendment."

SRI A. GOVINDACHARYULU :—"I would like to have a little enlightenment from the Hon. Minister on the following point. In answer to the debate on the general discussion, the Hon. Minister was pleased to observe that if there is found to be any grave miscarriage of justice, the Government could certainly rectify them, as they have got the power to do so. I would like to know from the Hon. Minister, whether this Bill contains any provisions, by which the Government can sit in judgment over the decision of the Tribunal, and rectify any injustice that might have been done by it."

THE HON. SRI KALA VENKATA RAO :—"Sir, I never said that the Government have got the power to sit in judgment over the decision of the Tribunal. I only said that power vests in the Government to bring in an amending Bill later, if they find that there is any serious miscarriage of justice, to suitably alter the provision in the Bill. When any serious defect in the law is pointed out, it is open to the Government to rectify the same, by bringing in an amending Bill later. Have not many of the existing Acts been amended, when serious lacunas have been pointed out by the High Court? Even in 1945, an amending Bill was brought by the Advisers' Government, as regards the inams question. Certainly, Sir, Government are not immune from the rulings of the High Court and of the criticism of the public, in the matter of administration of justice."

SRI A. GOVINDACHARYULU :—"As I am bound by the discipline of the party to which I belong, I have no option but to withdraw my amendment, Sir."

* DR. V. K. JOHN :—"I cannot allow the hon. Member to withdraw it, Sir, because rule 57 of the Madras Council Rules states: 'A member who has moved a motion or an amendment to a motion may withdraw the same with the leave of the Council expressed without a dissentient voice.' So, the consent of the House must be obtained before the amendment could be withdrawn, without even a single dissentient voice."

THE HON. SRI KALA VENKATA RAO :—"That is why the hon. Member provoked Mr. Govindacharyulu to move his amendment."

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DR. V. K. JOHN :—" I would have been helpless, if the hon. Member had withdrawn the amendment, without moving it."

MR. PRESIDENT :—" I shall try to help the hon. Mr. Govindacharyulu and see if the rule applies only to substantive motion . . ."

DR. V. K. JOHN :—" But an amendment is also a substantive motion."

MR. PRESIDENT :—" I would like to know whether the Hon. Mr. K. Madhava Menon or Mr. Narayana Menon could help the hon. Member."

SRI M. NARAYANA MENON :—" Amendments 22 and 23 are practically the same. And already the previous amendment has been voted against . . ."

MR. PRESIDENT :—" But that amendment and the one now under discussion are quite different, since the language of the amendments as well as the period mentioned in them are quite different."

SRI K. MADHAVA MENON :—" I do not feel any escape out of rule 57, Sir."

SRI M. NARAYANA MENON :—" There is no way out of it, Sir."

The motion for the withdrawal of the amendment was put to the vote of the House, and there were cries of " Yes " and " No."

MR. PRESIDENT :—" I have therefore no option but to put the amendment to the vote of the House."

The amendment was put to the vote of the House and declared lost. But Dr. John demanded a poll. The division bell was rung and in the meanwhile, before the doors were closed, the hon. Member Mr. Govindacharyulu left the House, amidst laughter. The amendment was again put to the vote of the House, and declared lost.

DR. V. K. JOHN :—" Now that the hon. Member has gone out, I do not press for a poll."

Amendments 24, 25, 26 and 27 in the name of Mr. Govindacharyulu were deemed to have been withdrawn since the hon. Member was not in his seat.

Clause 9 was put and carried.

MR. PRESIDENT :—" The House will now adjourn till 11 a.m. tomorrow, when we shall proceed with the discussion of the Bill, as it has been agreed that we shall have no non-official business tomorrow. The Hon. Dr. T. S. S. Rajan will move the usual motion for the suspension of rule 17."

The House then adjourned.